

## Union Calendar No.

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2830

[Report No. 109-]

To amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to reform the pension funding rules, and for other purposes.

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### IN THE HOUSE OF REPRESENTATIVES

JUNE 9, 2005

Mr. BOEHNER (for himself, Mr. THOMAS, Mr. SAM JOHNSON of Texas, Mr. KLINE, Mr. McKEON, Mr. TIBERI, and Mr. BOUSTANY) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

NOVEMBER --, 2005

Reported from the Committee on Ways and Means with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on June 9, 2005]

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## A BILL

To amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to reform the pension funding rules, and for other purposes.



1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the*  
5 *“Pension Protection Act of 2005”.*

6 (b) *TABLE OF CONTENTS.*—*The table of contents for*  
7 *this Act is as follows:*

*Sec. 1. Short title and table of contents.*

**TITLE I—REFORM OF FUNDING RULES FOR SINGLE-EMPLOYER  
DEFINED BENEFIT PENSION PLANS**

*Subtitle A—Amendments to Employee Retirement Income Security Act of 1974*

*Sec. 101. Minimum funding standards.*

*Sec. 102. Funding rules for single-employer defined benefit pension plans.*

*Sec. 103. Benefit limitations under single-employer plans.*

*Sec. 104. Technical and conforming amendments.*

*Subtitle B—Amendments to Internal Revenue Code of 1986*

*Sec. 111. Minimum funding standards.*

*Sec. 112. Funding rules for single-employer defined benefit pension plans.*

*Sec. 113. Benefit limitations under single-employer plans.*

*Sec. 114. Technical and conforming amendments.*

*Subtitle C—Other provisions*

*Sec. 121. Modification of transition rule to pension funding requirements.*

*Sec. 122. Treatment of nonqualified deferred compensation plans when employer  
defined benefit plan in at-risk status.*

**TITLE II—FUNDING RULES FOR MULTIEMPLOYER DEFINED  
BENEFIT PLANS**

*Subtitle A—Amendments to Employee Retirement Income Security Act of 1974*

*Sec. 201. Funding rules for multiemployer defined benefit plans.*

*Sec. 202. Additional funding rules for multiemployer plans in endangered or crit-  
ical status.*

*Sec. 203. Measures to forestall insolvency of multiemployer plans.*

*Sec. 204. Withdrawal liability reforms.*

*Sec. 205. Removal of restrictions with respect to procedures applicable to disputes  
involving withdrawal liability.*

*Subtitle B—Amendments to Internal Revenue Code of 1986*

*Sec. 211. Funding rules for multiemployer defined benefit plans.*

*Sec. 212. Additional funding rules for multiemployer plans in endangered or crit-  
ical status.*



*Sec. 213. Measures to forestall insolvency of multiemployer plans.*

### **TITLE III—OTHER PROVISIONS**

*Sec. 301. Interest rate for 2006 funding requirements.*

*Sec. 302. Interest rate assumption for determination of lump sum distributions.*

*Sec. 303. Interest rate assumption for applying benefit limitations to lump sum distributions.*

*Sec. 304. Distributions during working retirement.*

*Sec. 305. Other amendments relating to prohibited transactions.*

*Sec. 306. Correction period for certain transactions involving securities and commodities.*

*Sec. 307. Government Accountability Office pension funding report.*

### **TITLE IV—IMPROVEMENTS IN PBGC GUARANTEE PROVISIONS**

*Sec. 401. Increases in PBGC premiums.*

### **TITLE V—DISCLOSURE**

*Sec. 501. Defined benefit plan funding notices.*

*Sec. 502. Additional disclosure requirements.*

*Sec. 503. Section 4010 filings with the PBGC.*

### **TITLE VI—INVESTMENT ADVICE**

*Sec. 601. Amendments to Employee Retirement Income Security Act of 1974 providing prohibited transaction exemption for provision of investment advice.*

*Sec. 602. Amendments to Internal Revenue Code of 1986 providing prohibited transaction exemption for provision of investment advice.*

### **TITLE VII—BENEFIT ACCRUAL STANDARDS**

*Sec. 701. Improvements in benefit accrual standards.*

### **TITLE VIII—DEDUCTION LIMITATIONS**

*Sec. 801. Increase in deduction limits.*

*Sec. 802. Updating deduction rules for combination of plans.*

### **TITLE IX—ENHANCED RETIREMENTS SAVINGS AND DEFINED CONTRIBUTION PLANS**

*Sec. 901. Pensions and individual retirement arrangement provisions of Economic Growth and Tax Relief Reconciliation Act of 2001 made permanent.*

*Sec. 902. Saver's credit.*

*Sec. 903. Increasing participation through automatic contribution arrangements.*

*Sec. 904. Penalty-free withdrawals from retirement plans for individuals called to active duty for at least 179 days.*

*Sec. 905. Waiver of 10 percent early withdrawal penalty tax on certain distributions of pension plans for public safety employees.*

*Sec. 906. Combat zone compensation taken into account for purposes of determining limitation and deductibility of contributions to individual retirement plans.*

*Sec. 907. Direct payment of tax refunds to individual retirement plans.*

*Sec. 908. IRA eligibility for the disabled.*

*Sec. 909. Allow rollovers by nonspouse beneficiaries of certain retirement plan distributions.*

**TITLE X—PROVISIONS TO ENHANCE HEALTH CARE  
AFFORDABILITY**

*Sec. 1001. Treatment of annuity and life insurance contracts with a long-term care insurance feature.*

*Sec. 1002. Disposition of unused health benefits in cafeteria plans and flexible spending arrangements.*

*Sec. 1003. Distributions from governmental retirement plans for health and long-term care insurance for public safety officers.*

**1 TITLE I—REFORM OF FUNDING  
2 RULES FOR SINGLE-EM-  
3 PLOYER DEFINED BENEFIT  
4 PENSION PLANS**

**5 Subtitle A—Amendments to Em-  
6 ployee Retirement Income Secu-  
7 rity Act of 1974**

**8 SEC. 101. MINIMUM FUNDING STANDARDS.**

9 *[See section 101 of the bill as reported by the Com-  
10 mittee on Education and the Workforce.]*

**11 SEC. 102. FUNDING RULES FOR SINGLE-EMPLOYER DE-  
12 FINED BENEFIT PENSION PLANS.**

13 *[See section 102 of the bill as reported by the Com-  
14 mittee on Education and the Workforce.]*

**15 SEC. 103. BENEFIT LIMITATIONS UNDER SINGLE-EMPLOYER  
16 PLANS.**

17 *[See section 103 of the bill as reported by the Com-  
18 mittee on Education and the Workforce.]*



1 **SEC. 104. TECHNICAL AND CONFORMING AMENDMENTS.**

2 *[See section 104 of the bill as reported by the Com-*  
3 *mittee on Education and the Workforce.]*

4 ***Subtitle B—Amendments to***  
5 ***Internal Revenue Code of 1986***

6 **SEC. 111. MINIMUM FUNDING STANDARDS.**

7 *(a) NEW MINIMUM FUNDING STANDARDS.—Section*  
8 *412 of the Internal Revenue Code of 1986 (relating to min-*  
9 *imum funding standards) is amended to read as follows:*

10 **“SEC. 412. MINIMUM FUNDING STANDARDS.**

11 *“(a) REQUIREMENT TO MEET MINIMUM FUNDING*  
12 *STANDARD.—*

13 *“(1) IN GENERAL.—A plan to which this section*  
14 *applies shall satisfy the minimum funding standard*  
15 *applicable to the plan for any plan year.*

16 *“(2) MINIMUM FUNDING STANDARD.—For pur-*  
17 *poses of paragraph (1), a plan shall be treated as sat-*  
18 *isfying the minimum funding standard for a plan*  
19 *year if—*

20 *“(A) in the case of a defined benefit plan*  
21 *which is not a multiemployer plan, the employer*  
22 *makes contributions to or under the plan for the*  
23 *plan year which, in the aggregate, are not less*  
24 *than the minimum required contribution deter-*  
25 *mined under section 430 for the plan for the*  
26 *plan year,*

1           “(B) in the case of a money purchase plan  
2           which is not a multiemployer plan, the employer  
3           makes contributions to or under the plan for the  
4           plan year which are required under the terms of  
5           the plan, and

6           “(C) in the case of a multiemployer plan,  
7           the employers make contributions to or under the  
8           plan for any plan year which, in the aggregate,  
9           are sufficient to ensure that the plan does not  
10          have an accumulated funding deficiency under  
11          section 431 as of the end of the plan year.

12          “(b) *LIABILITY FOR CONTRIBUTIONS.*—

13                 “(1) *IN GENERAL.*—Except as provided in para-  
14                 graph (2), the amount of any contribution required  
15                 by this section (including any required installments  
16                 under paragraphs (3) and (4) of section 430(j)) shall  
17                 be paid by the employer responsible for making con-  
18                 tributions to or under the plan.

19                 “(2) *JOINT AND SEVERAL LIABILITY WHERE EM-*  
20                 *PLOYER MEMBER OF CONTROLLED GROUP.*—In the  
21                 case of a defined benefit plan which is not a multiem-  
22                 ployer plan, if the employer referred to in paragraph  
23                 (1) is a member of a controlled group, each member  
24                 of such group shall be jointly and severally liable for  
25                 payment of such contributions.

1       “(c) *VARIANCE FROM MINIMUM FUNDING STAND-*  
2 *ARDS.—*

3               “(1) *WAIVER IN CASE OF BUSINESS HARD-*  
4 *SHIP.—*

5                       “(A) *IN GENERAL.—If—*

6                               “(i) *an employer is (or in the case of*  
7 *a multiemployer plan, 10 percent or more*  
8 *of the number of employers contributing to*  
9 *or under the plan is) unable to satisfy the*  
10 *minimum funding standard for a plan year*  
11 *without temporary substantial business*  
12 *hardship (substantial business hardship in*  
13 *the case of a multiemployer plan), and*

14                               “(ii) *application of the standard would*  
15 *be adverse to the interests of plan partici-*  
16 *pants in the aggregate,*

17 *the Secretary may, subject to subparagraph (C),*  
18 *waive the requirements of subsection (a) for such*  
19 *year with respect to all or any portion of the*  
20 *minimum funding standard. The Secretary shall*  
21 *not waive the minimum funding standard with*  
22 *respect to a plan for more than 3 of any 15 (5*  
23 *of any 15 in the case of a multiemployer plan)*  
24 *consecutive plan years.*

1           “(B) *EFFECTS OF WAIVER.*—If a waiver is  
2           granted under subparagraph (A) for any plan  
3           year—

4                   “(i) in the case of a defined benefit  
5                   plan which is not a multiemployer plan, the  
6                   minimum required contribution under sec-  
7                   tion 430 for the plan year shall be reduced  
8                   by the amount of the waived funding defi-  
9                   ciency and such amount shall be amortized  
10                  as required under section 430(e), and

11                   “(ii) in the case of a multiemployer  
12                   plan, the funding standard account shall be  
13                   credited under section 431(b)(3)(C) with the  
14                   amount of the waived funding deficiency  
15                   and such amount shall be amortized as re-  
16                   quired under section 431(b)(2)(C).

17           “(C) *WAIVER OF AMORTIZED PORTION NOT*  
18           *ALLOWED.*—The Secretary may not waive under  
19           subparagraph (A) any portion of the minimum  
20           funding standard under subsection (a) for a plan  
21           year which is attributable to any waived funding  
22           deficiency for any preceding plan year.

23           “(2) *DETERMINATION OF BUSINESS HARD-*  
24           *SHIP.*—For purposes of this subsection, the factors  
25           taken into account in determining temporary sub-



1        *stantial business hardship (substantial business hard-*  
2        *ship in the case of a multiemployer plan) shall in-*  
3        *clude (but shall not be limited to) whether or not—*

4                *“(A) the employer is operating at an eco-*  
5                *nomie loss,*

6                *“(B) there is substantial unemployment or*  
7                *underemployment in the trade or business and*  
8                *in the industry concerned,*

9                *“(C) the sales and profits of the industry*  
10               *concerned are depressed or declining, and*

11               *“(D) it is reasonable to expect that the plan*  
12               *will be continued only if the waiver is granted.*

13               *“(3) WAIVED FUNDING DEFICIENCY.—For pur-*  
14               *poses of this section and part III of this subchapter,*  
15               *the term ‘waived funding deficiency’ means the por-*  
16               *tion of the minimum funding standard under sub-*  
17               *section (a) (determined without regard to the waiver)*  
18               *for a plan year waived by the Secretary and not sat-*  
19               *isfied by employer contributions.*

20               *“(4) SECURITY FOR WAIVERS FOR SINGLE-EM-*  
21               *PLOYER PLANS, CONSULTATIONS.—*

22               *“(A) SECURITY MAY BE REQUIRED.—*

23               *“(i) IN GENERAL.—Except as provided*  
24               *in subparagraph (C), the Secretary may re-*  
25               *quire an employer maintaining a defined*



1           *benefit plan which is not a multiemployer*  
2           *plan to provide security to such plan as a*  
3           *condition for granting or modifying a waiv-*  
4           *er under paragraph (1).*

5           “(ii) *SPECIAL RULES.—Any security*  
6           *provided under clause (i) may be perfected*  
7           *and enforced only by the Pension Benefit*  
8           *Guaranty Corporation, or at the direction*  
9           *of the Corporation, by a contributing spon-*  
10          *sor (within the meaning of section*  
11          *4001(a)(13) of the Employee Retirement In-*  
12          *come Security Act of 1974), or a member of*  
13          *such sponsor’s controlled group (within the*  
14          *meaning of section 4001(a)(14) of such Act).*

15          “(B) *CONSULTATION WITH THE PENSION*  
16          *BENEFIT GUARANTY CORPORATION.—Except as*  
17          *provided in subparagraph (C), the Secretary*  
18          *shall, before granting or modifying a waiver*  
19          *under this subsection with respect to a plan de-*  
20          *scribed in subparagraph (A)(i)—*

21                 “(i) *provide the Pension Benefit Guar-*  
22                 *anty Corporation with—*

23                         “(I) *notice of the completed appli-*  
24                         *cation for any waiver or modification,*  
25                         *and*

1                   “(II) an opportunity to comment  
2                   on such application within 30 days  
3                   after receipt of such notice, and  
4                   “(ii) consider—

5                   “(I) any comments of the Cor-  
6                   poration under clause (i)(II), and

7                   “(II) any views of any employee  
8                   organization (within the meaning of  
9                   section 3(4) of the Employee Retirement  
10                  Income Security Act of 1974)  
11                  representing participants in the plan  
12                  which are submitted in writing to the  
13                  Secretary in connection with such ap-  
14                  plication.

15                  Information provided to the Corporation under  
16                  this subparagraph shall be considered tax return  
17                  information and subject to the safeguarding and  
18                  reporting requirements of section 6103(p).

19                  “(C) EXCEPTION FOR CERTAIN WAIVERS.—

20                  “(i) IN GENERAL.—The preceding pro-  
21                  visions of this paragraph shall not apply to  
22                  any plan with respect to which the sum  
23                  of—

24                  “(I) the aggregate unpaid min-  
25                  imum required contribution (within

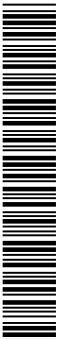
1           *the meaning of section 4971(c)(4)) for*  
2           *the plan year and all preceding plan*  
3           *years, and*

4                     “(II) *the present value of all*  
5                     *waiver amortization installments de-*  
6                     *termined for the plan year and suc-*  
7                     *ceeding plan years under section*  
8                     *430(e)(2),*  
9           *is less than \$1,000,000.*

10                   “(i) *TREATMENT OF WAIVERS FOR*  
11                   *WHICH APPLICATIONS ARE PENDING.—The*  
12                   *amount described in clause (i)(I) shall in-*  
13                   *clude any increase in such amount which*  
14                   *would result if all applications for waivers*  
15                   *of the minimum funding standard under*  
16                   *this subsection which are pending with re-*  
17                   *spect to such plan were denied.*

18                   “(5) *SPECIAL RULES FOR SINGLE-EMPLOYER*  
19                   *PLANS.—*

20                   “(A) *APPLICATION MUST BE SUBMITTED*  
21                   *BEFORE DATE 2<sup>1</sup>/<sub>2</sub> MONTHS AFTER CLOSE OF*  
22                   *YEAR.—In the case of a defined benefit plan*  
23                   *which is not a multiemployer plan, no waiver*  
24                   *may be granted under this subsection with re-*  
25                   *spect to any plan for any plan year unless an*



1        *application therefor is submitted to the Secretary*  
2        *not later than the 15th day of the 3rd month be-*  
3        *ginning after the close of such plan year.*

4                *“(B) SPECIAL RULE IF EMPLOYER IS MEM-*  
5        *BER OF CONTROLLED GROUP.—In the case of a*  
6        *defined benefit plan which is not a multiem-*  
7        *ployer plan, if an employer is a member of a*  
8        *controlled group, the temporary substantial busi-*  
9        *ness hardship requirements of paragraph (1)*  
10       *shall be treated as met only if such requirements*  
11       *are met—*

12                *“(i) with respect to such employer, and*

13                *“(ii) with respect to the controlled*  
14        *group of which such employer is a member*  
15        *(determined by treating all members of such*  
16        *group as a single employer).*

17        *The Secretary may provide that an analysis of*  
18        *a trade or business or industry of a member need*  
19        *not be conducted if the Secretary determines such*  
20        *analysis is not necessary because the taking into*  
21        *account of such member would not significantly*  
22        *affect the determination under this paragraph.*

23                *“(6) ADVANCE NOTICE.—*

24                *“(A) IN GENERAL.—The Secretary shall, be-*  
25        *fore granting a waiver under this subsection, re-*

1        *quire each applicant to provide evidence satisfac-*  
2        *tory to the Secretary that the applicant has pro-*  
3        *vided notice of the filing of the application for*  
4        *such waiver to to each affected party (as defined*  
5        *in section 4001(a)(21) of the Employee Retirement*  
6        *Income Security Act of 1974). Such notice*  
7        *shall include a description of the extent to which*  
8        *the plan is funded for benefits which are guaran-*  
9        *teed under title IV and for benefit liabilities.*

10        *“(B) CONSIDERATION OF RELEVANT INFOR-*  
11        *MATION.—The Secretary shall consider any rel-*  
12        *evant information provided by a person to whom*  
13        *notice was given under subparagraph (A).*

14        *“(7) RESTRICTION ON PLAN AMENDMENTS.—*

15        *“(A) IN GENERAL.—No amendment of a*  
16        *plan which increases the liabilities of the plan by*  
17        *reason of any increase in benefits, any change in*  
18        *the accrual of benefits, or any change in the rate*  
19        *at which benefits become nonforfeitable under the*  
20        *plan shall be adopted if a waiver under this sub-*  
21        *section or an extension of time under section*  
22        *431(d) is in effect with respect to the plan, or if*  
23        *a plan amendment described in subsection (d)(2)*  
24        *has been made at any time in the preceding 12*  
25        *months (24 months in the case of a multiem-*

1        *ployer plan*). *If a plan is amended in violation*  
2        *of the preceding sentence, any such waiver, or ex-*  
3        *tension of time, shall not apply to any plan year*  
4        *ending on or after the date on which such*  
5        *amendment is adopted.*

6                *“(B) EXCEPTION.—Paragraph (1) shall not*  
7        *apply to any plan amendment which—*

8                        *“(i) the Secretary determines to be rea-*  
9                        *sonable and which provides for only de*  
10                       *minimis increases in the liabilities of the*  
11                       *plan,*

12                       *“(ii) only repeals an amendment de-*  
13                       *scribed in subsection (d)(2), or*

14                       *“(iii) is required as a condition of*  
15                       *qualification under part I of subchapter D,*  
16                       *of chapter 1.*

17        *“(d) MISCELLANEOUS RULES.—*

18                       *“(1) CHANGE IN METHOD OR YEAR.—If the fund-*  
19        *ing method, the valuation date, or a plan year for a*  
20        *plan is changed, the change shall take effect only if*  
21        *approved by the Secretary.*

22                       *“(2) CERTAIN RETROACTIVE PLAN AMEND-*  
23        *MENTS.—For purposes of this section, any amend-*  
24        *ment applying to a plan year which—*

1           “(A) is adopted after the close of such plan  
2           year but no later than 2½ months after the close  
3           of the plan year (or, in the case of a multiem-  
4           ployer plan, no later than 2 years after the close  
5           of such plan year),

6           “(B) does not reduce the accrued benefit of  
7           any participant determined as of the beginning  
8           of the first plan year to which the amendment  
9           applies, and

10          “(C) does not reduce the accrued benefit of  
11          any participant determined as of the time of  
12          adoption except to the extent required by the cir-  
13          cumstances,

14          shall, at the election of the plan administrator, be  
15          deemed to have been made on the first day of such  
16          plan year. No amendment described in this para-  
17          graph which reduces the accrued benefits of any par-  
18          ticipant shall take effect unless the plan adminis-  
19          trator files a notice with the Secretary notifying him  
20          of such amendment and the Secretary has approved  
21          such amendment, or within 90 days after the date on  
22          which such notice was filed, failed to disapprove such  
23          amendment. No amendment described in this sub-  
24          section shall be approved by the Secretary unless the  
25          Secretary determines that such amendment is nec-



1        *essary because of a substantial business hardship (as*  
2        *determined under subsection (c)(2)) and that a waiv-*  
3        *er under subsection (c) (or, in the case of a multiem-*  
4        *ployer plan, any extension of the amortization period*  
5        *under section 431(d)) is unavailable or inadequate.*

6            *“(3) CONTROLLED GROUP.—For purposes of this*  
7        *section, the term ‘controlled group’ means any group*  
8        *treated as a single employer under subsection (b), (c),*  
9        *(m), or (o) of section 414.*

10        *“(e) PLANS TO WHICH SECTION APPLIES.—*

11            *“(1) IN GENERAL.—Except as provided in para-*  
12        *graph (2), this section applies to a plan if, for any*  
13        *plan year beginning after December 31, 2006—*

14            *“(A) such plan included a trust which*  
15        *qualified (or was determined by the Secretary to*  
16        *have qualified) under section 401(a), or*

17            *“(B) such plan satisfied (or was determined*  
18        *by the Secretary to have satisfied) the require-*  
19        *ments of section 403(a).*

20        *“(2) EXCEPTIONS.—This section shall not apply*  
21        *to—*

22            *“(A) any profit-sharing or stock bonus plan,*

23            *“(B) any insurance contract plan described*  
24        *in paragraph (3),*

1           “(C) any governmental plan (within the  
2           meaning of section 414(d)),

3           “(D) any church plan (within the meaning  
4           of section 414(e)) with respect to which the elec-  
5           tion provided by section 410(d) has not been  
6           made,

7           “(E) any plan which has not, at any time  
8           after September 2, 1974, provided for employer  
9           contributions, or

10          “(F) any plan established and maintained  
11          by a society, order, or association described in  
12          section 501(c)(8) or (9), if no part of the con-  
13          tributions to or under such plan are made by  
14          employers of participants in such plan.

15          No plan described in subparagraph (C), (D), or (F)  
16          shall be treated as a qualified plan for purposes of  
17          section 401(a) unless such plan meets the require-  
18          ments of section 401(a)(7) as in effect on September  
19          1, 1974.

20          “(3) CERTAIN INSURANCE CONTRACT PLANS.—A  
21          plan is described in this paragraph if—

22               “(A) the plan is funded exclusively by the  
23               purchase of individual insurance contracts,

24               “(B) such contracts provide for level annual  
25               premium payments to be paid extending not



1           *later than the retirement age for each individual*  
2           *participating in the plan, and commencing with*  
3           *the date the individual became a participant in*  
4           *the plan (or, in the case of an increase in bene-*  
5           *fits, commencing at the time such increase be-*  
6           *comes effective),*

7           “(C) *benefits provided by the plan are equal*  
8           *to the benefits provided under each contract at*  
9           *normal retirement age under the plan and are*  
10          *guaranteed by an insurance carrier (licensed*  
11          *under the laws of a State to do business with the*  
12          *plan) to the extent premiums have been paid,*

13          “(D) *premiums payable for the plan year,*  
14          *and all prior plan years, under such contracts*  
15          *have been paid before lapse or there is reinstatement*  
16          *of the policy,*

17          “(E) *no rights under such contracts have*  
18          *been subject to a security interest at any time*  
19          *during the plan year, and*

20          “(F) *no policy loans are outstanding at any*  
21          *time during the plan year.*

22          *A plan funded exclusively by the purchase of group*  
23          *insurance contracts which is determined under regu-*  
24          *lations prescribed by the Secretary to have the same*  
25          *characteristics as contracts described in the preceding*

1       *sentence shall be treated as a plan described in this*  
2       *paragraph.”.*

3       **(b) EFFECTIVE DATE.**—*The amendments made by this*  
4       *section shall apply to plan years beginning after December*  
5       *31, 2006.*

6       **SEC. 112. FUNDING RULES FOR SINGLE-EMPLOYER DE-**  
7       **FINED BENEFIT PENSION PLANS.**

8       **(a) IN GENERAL.**—*Subchapter D of chapter 1 of the*  
9       *Internal Revenue Code of 1986 (relating to deferred com-*  
10       *pensation, etc.) is amended by adding at the end the fol-*  
11       *lowing new part:*

12       **“PART III—MINIMUM FUNDING STANDARDS FOR**  
13       **SINGLE-EMPLOYER DEFINED BENEFIT PEN-**  
14       **SION PLANS**

15       **“SEC. 430. MINIMUM FUNDING STANDARDS FOR SINGLE-EM-**  
16       **PLOYER DEFINED BENEFIT PENSION PLANS.**

17       **“(a) MINIMUM REQUIRED CONTRIBUTION.**—*For pur-*  
18       *poses of this section and section 412(a)(2)(A), except as pro-*  
19       *vided in subsection (f), the term ‘minimum required con-*  
20       *tribution’ means, with respect to any plan year of a defined*  
21       *benefit plan which is not a multiemployer plan—*

22               *“(1) in any case in which the value of plan as-*  
23       *sets of the plan (as reduced under subsection*  
24       *(f)(4)(B)) is less than the funding target of the plan*  
25       *for the plan year, the sum of—*

1                   “(A) the target normal cost of the plan for  
2                   the plan year,

3                   “(B) the shortfall amortization charge (if  
4                   any) for the plan for the plan year determined  
5                   under subsection (c), and

6                   “(C) the waiver amortization charge (if  
7                   any) for the plan for the plan year as deter-  
8                   mined under subsection (e);

9                   “(2) in any case in which the value of plan as-  
10                  sets of the plan (as reduced under subsection  
11                  (f)(4)(B)) exceeds the funding target of the plan for  
12                  the plan year, the target normal cost of the plan for  
13                  the plan year reduced by such excess; or

14                  “(3) in any other case, the target normal cost of  
15                  the plan for the plan year.

16                  “(b) TARGET NORMAL COST.—For purposes of this  
17                  section, except as provided in subsection (i)(2) with respect  
18                  to plans in at-risk status, the term ‘target normal cost’  
19                  means, for any plan year, the present value of all benefits  
20                  which are expected to accrue or to be earned under the plan  
21                  during the plan year. For purposes of this subsection, if  
22                  any benefit attributable to services performed in a preceding  
23                  plan year is increased by reason of any increase in com-  
24                  pensation during the current plan year, the increase in such

1 *benefit shall be treated as having accrued during the current*  
2 *plan year.*

3 “(c) *SHORTFALL AMORTIZATION CHARGE.*—

4 “(1) *IN GENERAL.*—For purposes of this section,  
5 *the shortfall amortization charge for a plan for any*  
6 *plan year is the aggregate total of the shortfall amor-*  
7 *tization installments for such plan year with respect*  
8 *to the shortfall amortization bases for such plan year*  
9 *and each of the 6 preceding plan years.*

10 “(2) *SHORTFALL AMORTIZATION INSTALL-*  
11 *MENT.*—The plan sponsor shall determine, with re-  
12 *spect to the shortfall amortization base of the plan for*  
13 *any plan year, the amounts necessary to amortize*  
14 *such shortfall amortization base, in level annual in-*  
15 *stallments over a period of 7 plan years beginning*  
16 *with such plan year. For purposes of paragraph (1),*  
17 *the annual installment of such amortization for each*  
18 *plan year in such 7-plan-year period is the shortfall*  
19 *amortization installment for such plan year with re-*  
20 *spect to such shortfall amortization base. In deter-*  
21 *mining any shortfall amortization installment under*  
22 *this paragraph, the plan sponsor shall use the seg-*  
23 *ment rates determined under subparagraph (C) of*  
24 *subsection (h)(2), applied under rules similar to the*  
25 *rules of subparagraph (B) of subsection (h)(2).*

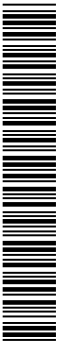
1           “(3) *SHORTFALL AMORTIZATION BASE.—For*  
2           *purposes of this section, the shortfall amortization*  
3           *base of a plan for a plan year is the excess (if any)*  
4           *of—*

5                     “(A) *the funding shortfall of such plan for*  
6           *such plan year, over*

7                     “(B) *the sum of—*

8                             “(i) *the present value (determined*  
9                             *using the segment rates determined under*  
10                            *subparagraph (C) of subsection (h)(2), ap-*  
11                            *plied under rules similar to the rules of sub-*  
12                            *paragraph (B) of subsection (h)(2)) of the*  
13                            *aggregate total of the shortfall amortization*  
14                            *installments, for such plan year and the 5*  
15                            *succeeding plan years, which have been de-*  
16                            *termined with respect to the shortfall amor-*  
17                            *tization bases of the plan for each of the 6*  
18                            *plan years preceding such plan year, and*

19                            “(ii) *the present value (as so deter-*  
20                            *mined) of the aggregate total of the waiver*  
21                            *amortization installments for such plan*  
22                            *year and the 5 succeeding plan years, which*  
23                            *have been determined with respect to the*  
24                            *waiver amortization bases of the plan for*



1           *each of the 5 plan years preceding such*  
2           *plan year.*

3           *In any case in which the value of plan assets of*  
4           *the plan (as reduced under subsection (f)(4)(A))*  
5           *is equal to or greater than the funding target of*  
6           *the plan for the plan year, the shortfall amorti-*  
7           *zation base of the plan for such plan year shall*  
8           *be zero.*

9           “(4) *FUNDING SHORTFALL.—*

10           “(A) *IN GENERAL.—For purposes of this*  
11           *section, except as provided in subparagraph (B),*  
12           *the funding shortfall of a plan for any plan year*  
13           *is the excess (if any) of—*

14           “(i) *the funding target of the plan for*  
15           *the plan year, over*

16           “(ii) *the value of plan assets of the*  
17           *plan (as reduced under subsection (f)(4)(B))*  
18           *for the plan year which are held by the plan*  
19           *on the valuation date.*

20           “(B) *TRANSITION RULE.—*

21           “(i) *IN GENERAL.—For purposes of*  
22           *paragraph (3), in the case of a non-deficit*  
23           *reduction plan, subparagraph (A) shall be*  
24           *applied to plan years beginning after 2006*  
25           *and before 2011 by substituting for the*



1                    *amount described in subparagraph (A)(i)*  
 2                    *the applicable percentage of the funding tar-*  
 3                    *get of the plan for the plan year determined*  
 4                    *under the following table:*

<b><i>“In the case of a plan year beginning in calendar year:</i></b>	<b><i>The appli- cable per- centage is:</i></b>
2007 .....	92 percent
2008 .....	94 percent
2009 .....	96 percent
2010 .....	98 percent.

5                    *“(ii) NON-DEFICIT REDUCTION PLAN.—*  
 6                    *For purposes of clause (i), the term ‘non-*  
 7                    *deficit reduction plan’ means any plan—*

8                    *“(I) to which section 412 (as in*  
 9                    *effect on the day before the date of the*  
 10                    *enactment of the Pension Protection*  
 11                    *Act of 2005) applied for the plan year*  
 12                    *beginning in 2006, and*

13                    *“(II) to which subsection (l) of*  
 14                    *such section (as so in effect) did not*  
 15                    *apply for such plan year.*

16                    *“(5) EARLY DEEMED AMORTIZATION UPON AT-*  
 17                    *TAINMENT OF FUNDING TARGET.—In any case in*  
 18                    *which the funding shortfall of a plan for a plan year*  
 19                    *is zero, for purposes of determining the shortfall am-*  
 20                    *ortization charge for such plan year and succeeding*  
 21                    *plan years, the shortfall amortization bases for all*

1       *preceding plan years (and all shortfall amortization*  
2       *installments determined with respect to such bases)*  
3       *shall be reduced to zero.*

4       “(d) *RULES RELATING TO FUNDING TARGET.—For*  
5       *purposes of this section—*

6               “(1) *FUNDING TARGET.—Except as provided in*  
7       *subsection (i)(1) with respect to plans in at-risk sta-*  
8       *tus, the funding target of a plan for a plan year is*  
9       *the present value of all liabilities to participants and*  
10       *their beneficiaries under the plan for the plan year.*

11               “(2) *FUNDING TARGET ATTAINMENT PERCENT-*  
12       *AGE.—The ‘funding target attainment percentage’ of*  
13       *a plan for a plan year is the ratio (expressed as a*  
14       *percentage) which—*

15                       “(A) *the value of plan assets for the plan*  
16               *year (as reduced under subsection (f)(4)(B)),*  
17               *bears to*

18                       “(B) *the funding target of the plan for the*  
19               *plan year (determined without regard to sub-*  
20               *section (i)(1)).*

21       “(e) *WAIVER AMORTIZATION CHARGE.—*

22               “(1) *DETERMINATION OF WAIVER AMORTIZATION*  
23       *CHARGE.—The waiver amortization charge (if any)*  
24       *for a plan for any plan year is the aggregate total*  
25       *of the waiver amortization installments for such plan*

1       *year with respect to the waiver amortization bases for*  
2       *each of the 5 preceding plan years.*

3           “(2) *WAIVER AMORTIZATION INSTALLMENT.—*  
4       *The plan sponsor shall determine, with respect to the*  
5       *waiver amortization base of the plan for any plan*  
6       *year, the amounts necessary to amortize such waiver*  
7       *amortization base, in level annual installments over*  
8       *a period of 5 plan years beginning with the suc-*  
9       *ceeding plan year. For purposes of paragraph (1), the*  
10       *annual installment of such amortization for each*  
11       *plan year in such 5-plan year period is the waiver*  
12       *amortization installment for such plan year with re-*  
13       *spect to such waiver amortization base.*

14           “(3) *INTEREST RATE.—In determining any*  
15       *waiver amortization installment under this sub-*  
16       *section, the plan sponsor shall use the segment rates*  
17       *determined under subparagraph (C) of subsection*  
18       *(h)(2), applied under rules similar to the rules of sub-*  
19       *paragraph (B) of subsection (h)(2).*

20           “(4) *WAIVER AMORTIZATION BASE.—The waiver*  
21       *amortization base of a plan for a plan year is the*  
22       *amount of the waived funding deficiency (if any) for*  
23       *such plan year under section 412(c).*

24           “(5) *EARLY DEEMED AMORTIZATION UPON AT-*  
25       *TAINMENT OF FUNDING TARGET.—In any case in*



1       *which the funding shortfall of a plan for a plan year*  
2       *is zero, for purposes of determining the waiver amor-*  
3       *tization charge for such plan year and succeeding*  
4       *plan years, the waiver amortization base for all pre-*  
5       *ceding plan years shall be reduced to zero.*

6       “(f) *REDUCTION OF MINIMUM REQUIRED CONTRIBU-*  
7       *TION BY PRE-FUNDING BALANCE AND FUNDING STANDARD*  
8       *CARRYOVER BALANCE.—*

9               “(1) *ELECTION TO MAINTAIN BALANCES.—*

10               “(A) *PRE-FUNDING BALANCE.—The plan*  
11               *sponsor of a defined benefit plan which is not a*  
12               *multiemployer plan may elect to maintain a*  
13               *pre-funding balance.*

14               “(B) *FUNDING STANDARD CARRYOVER BAL-*  
15               *ANCE.—*

16               “(i) *IN GENERAL.—In the case of a de-*  
17               *defined benefit plan (other than a multiem-*  
18               *ployer plan) described in clause (ii), the*  
19               *plan sponsor may elect to maintain a fund-*  
20               *ing standard carryover balance, until such*  
21               *balance is reduced to zero.*

22               “(ii) *PLANS MAINTAINING FUNDING*  
23               *STANDARD ACCOUNT IN 2006.—A plan is de-*  
24               *scribed in this clause if the plan—*

1                   “(I) *was in effect for a plan year*  
2                   *beginning in 2006, and*

3                   “(II) *had a positive balance in the*  
4                   *funding standard account under sec-*  
5                   *tion 412(b) as in effect for such plan*  
6                   *year and determined as of the end of*  
7                   *such plan year.*

8                   “(2) *APPLICATION OF BALANCES.—A pre-funding*  
9                   *balance and a funding standard carryover balance*  
10                  *maintained pursuant to this paragraph—*

11                  “(A) *shall be available for crediting against*  
12                  *the minimum required contribution, pursuant to*  
13                  *an election under paragraph (3),*

14                  “(B) *shall be applied as a reduction in the*  
15                  *amount treated as the value of plan assets for*  
16                  *purposes of this section, to the extent provided in*  
17                  *paragraph (4), and*

18                  “(C) *may be reduced at any time, pursuant*  
19                  *to an election under paragraph (5).*

20                  “(3) *ELECTION TO APPLY BALANCES AGAINST*  
21                  *MINIMUM REQUIRED CONTRIBUTION.—*

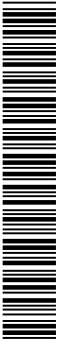
22                  “(A) *IN GENERAL.—Except as provided in*  
23                  *subparagraphs (B) and (C), in the case of any*  
24                  *plan year in which the plan sponsor elects to*  
25                  *credit against the minimum required contribu-*

1            *tion for the current plan year all or a portion*  
2            *of the pre-funding balance or the funding stand-*  
3            *ard carryover balance for the current plan year*  
4            *(not in excess of such minimum required con-*  
5            *tribution), the minimum required contribution*  
6            *for the plan year shall be reduced by the amount*  
7            *so credited by the plan sponsor. For purposes of*  
8            *the preceding sentence, the minimum required*  
9            *contribution shall be determined after taking*  
10           *into account any waiver under section 412(c).*

11           “(B) *COORDINATION WITH FUNDING STAND-*  
12           *ARD CARRYOVER BALANCE.—To the extent that*  
13           *any plan has a funding standard carryover bal-*  
14           *ance greater than zero, no amount of the pre-*  
15           *funding balance of such plan may be credited*  
16           *under this paragraph in reducing the minimum*  
17           *required contribution.*

18           “(C) *LIMITATION FOR UNDERFUNDED*  
19           *PLANS.—The preceding provisions of this para-*  
20           *graph shall not apply for any plan year if the*  
21           *ratio (expressed as a percentage) which—*

22                  *“(i) the value of plan assets for the*  
23                  *preceding plan year (as reduced under*  
24                  *paragraph (4)(C)), bears to*



1                   “(ii) the funding target of the plan for  
2                   the preceding plan year (determined with-  
3                   out regard to subsection (i)(1)),  
4                   is less than 80 percent.

5                   “(4) *EFFECT OF BALANCES ON AMOUNTS TREAT-*  
6                   *ED AS VALUE OF PLAN ASSETS.*—*In the case of any*  
7                   *plan maintaining a pre-funding balance or a funding*  
8                   *standard carryover balance pursuant to this sub-*  
9                   *section, the amount treated as the value of plan assets*  
10                  *shall be deemed to be such amount, reduced as pro-*  
11                  *vided in the following subparagraphs:*

12                  “(A) *APPLICABILITY OF SHORTFALL AMOR-*  
13                  *TIZATION BASE.*—*For purposes of subsection*  
14                  *(c)(3), the value of plan assets is deemed to be*  
15                  *such amount, reduced by the amount of the pre-*  
16                  *funding balance, but only if an election under*  
17                  *paragraph (2) applying any portion of the pre-*  
18                  *funding balance in reducing the minimum re-*  
19                  *quired contribution is in effect for the plan year.*

20                  “(B) *DETERMINATION OF EXCESS ASSETS,*  
21                  *FUNDING SHORTFALL, AND FUNDING TARGET AT-*  
22                  *TAINMENT PERCENTAGE.*—*For purposes of sub-*  
23                  *sections (a), (c)(4)(A)(ii), and (d)(2)(A), the*  
24                  *value of plan assets is deemed to be such amount,*  
25                  *reduced by the amount of the pre-funding bal-*

1           *ance and the funding standard carryover bal-*  
2           *ance.*

3           “(C) *AVAILABILITY OF BALANCES IN PLAN*  
4           *YEAR FOR CREDITING AGAINST MINIMUM RE-*  
5           *QUIRED CONTRIBUTION.—For purposes of para-*  
6           *graph (3)(C)(i) of this subsection, the value of*  
7           *plan assets is deemed to be such amount, reduced*  
8           *by the amount of the pre-funding balance.*

9           “(5) *ELECTION TO REDUCE BALANCE PRIOR TO*  
10          *DETERMINATIONS OF VALUE OF PLAN ASSETS AND*  
11          *CREDITING AGAINST MINIMUM REQUIRED CONTRIBU-*  
12          *TION.—*

13          “(A) *IN GENERAL.—The plan sponsor may*  
14          *elect to reduce by any amount the balance of the*  
15          *pre-funding balance and the funding standard*  
16          *carryover balance for any plan year (but not*  
17          *below zero). Such reduction shall be effective*  
18          *prior to any determination of the value of plan*  
19          *assets for such plan year under this section and*  
20          *application of the balance in reducing the min-*  
21          *imum required contribution for such plan for*  
22          *such plan year pursuant to an election under*  
23          *paragraph (2).*

24          “(B) *COORDINATION BETWEEN PRE-FUND-*  
25          *ING BALANCE AND FUNDING STANDARD CARRY-*



1           *OVER BALANCE.—To the extent that any plan*  
2           *has a funding standard carryover balance great-*  
3           *er than zero, no election may be made under sub-*  
4           *paragraph (A) with respect to the pre-funding*  
5           *balance.*

6           “(6) *PRE-FUNDING BALANCE.—*

7                   “(A) *IN GENERAL.—A pre-funding balance*  
8                   *maintained by a plan shall consist of a begin-*  
9                   *ning balance of zero, increased and decreased to*  
10                  *the extent provided in subparagraphs (B) and*  
11                  *(C), and adjusted further as provided in para-*  
12                  *graph (8).*

13                  “(B) *INCREASES.—As of the valuation date*  
14                  *for each plan year beginning after 2007, the pre-*  
15                  *funding balance of a plan shall be increased by*  
16                  *the amount elected by the plan sponsor for the*  
17                  *plan year. Such amount shall not exceed the ex-*  
18                  *cess (if any) of—*

19                          “(i) *the aggregate total of employer*  
20                          *contributions to the plan for the preceding*  
21                          *plan year, over*

22                          “(ii) *the minimum required contribu-*  
23                          *tion for such preceding plan year (increased*  
24                          *by interest on any portion of such min-*  
25                          *imum required contribution remaining un-*

1           *paid as of the valuation date for the current*  
2           *plan year, at the effective interest rate for*  
3           *the plan for the preceding plan year, for the*  
4           *period beginning with the first day of such*  
5           *preceding plan year and ending on the date*  
6           *that payment of such portion is made).*

7           “(C) *DECREASES.*—*As of the valuation date*  
8           *for each plan year after 2007, the pre-funding*  
9           *balance of a plan shall be decreased (but not*  
10          *below zero) by the sum of—*

11                 “(i) *the amount of such balance cred-*  
12                 *ited under paragraph (2) (if any) in reduc-*  
13                 *ing the minimum required contribution of*  
14                 *the plan for the preceding plan year, and*

15                 “(ii) *any reduction in such balance*  
16                 *elected under paragraph (5).*

17          “(7) *FUNDING STANDARD CARRYOVER BAL-*  
18          *ANCE.*—

19                 “(A) *IN GENERAL.*—*A funding standard*  
20                 *carryover balance maintained by a plan shall*  
21                 *consist of a beginning balance determined under*  
22                 *subparagraph (B), decreased to the extent pro-*  
23                 *vided in subparagraph (C), and adjusted further*  
24                 *as provided in paragraph (8).*

1                   “(B) *BEGINNING BALANCE.*—*The beginning*  
2                   *balance of the funding standard carryover bal-*  
3                   *ance shall be the positive balance described in*  
4                   *paragraph (1)(B)(ii)(II).*

5                   “(C) *DECREASES.*—*As of the valuation date*  
6                   *for each plan year after 2007, the funding stand-*  
7                   *ard carryover balance of a plan shall be de-*  
8                   *creased (but not below zero) by the sum of—*

9                   “(i) *the amount of such balance cred-*  
10                   *ited under paragraph (2) (if any) in reduc-*  
11                   *ing the minimum required contribution of*  
12                   *the plan for the preceding plan year, and*

13                   “(ii) *any reduction in such balance*  
14                   *elected under paragraph (5).*

15                   “(8) *ADJUSTMENTS TO BALANCES.*—*In deter-*  
16                   *mining the pre-funding balance or the funding stand-*  
17                   *ard carryover balance of a plan as of the valuation*  
18                   *date (before applying any increase or decrease under*  
19                   *paragraph (6) or (7)), the plan sponsor shall, in ac-*  
20                   *cordance with regulations which shall be prescribed*  
21                   *by the Secretary, adjust such balance so as to reflect*  
22                   *the rate of net gain or loss (determined, notwith-*  
23                   *standing subsection (g)(3), on the basis of fair market*  
24                   *value) experienced by all plan assets for the period be-*  
25                   *ginning with the valuation date for the preceding*

1        *plan year and ending with the date preceding the*  
2        *valuation date for the current plan year, properly*  
3        *taking into account, in accordance with such regula-*  
4        *tions, all contributions, distributions, and other plan*  
5        *payments made during such period.*

6            “(9) *ELECTIONS.—Elections under this sub-*  
7        *section shall be made at such times, and in such form*  
8        *and manner, as shall be prescribed in regulations of*  
9        *the Secretary.*

10        “(g) *VALUATION OF PLAN ASSETS AND LIABILITIES.—*

11            “(1) *TIMING OF DETERMINATIONS.—Except as*  
12        *otherwise provided under this subsection, all deter-*  
13        *minations under this section for a plan year shall be*  
14        *made as of the valuation date of the plan for such*  
15        *plan year.*

16            “(2) *VALUATION DATE.—For purposes of this*  
17        *section—*

18            “(A) *IN GENERAL.—Except as provided in*  
19        *subparagraph (B), the valuation date of a plan*  
20        *for any plan year shall be the first day of the*  
21        *plan year.*

22            “(B) *EXCEPTION FOR SMALL PLANS.—If, on*  
23        *each day during the preceding plan year, a plan*  
24        *had 500 or fewer participants, the plan may des-*  
25        *ignate any day during the plan year as its valu-*

1            *ation date for such plan year and succeeding*  
2            *plan years. For purposes of this subparagraph,*  
3            *all defined benefit plans (other than multiem-*  
4            *ployer plans) maintained by the same employer*  
5            *(or any member of such employer's controlled*  
6            *group) shall be treated as 1 plan, but only par-*  
7            *ticipants with respect to such employer or mem-*  
8            *ber shall be taken into account.*

9            *“(C) APPLICATION OF CERTAIN RULES IN*  
10           *DETERMINATION OF PLAN SIZE.—For purposes of*  
11           *this paragraph—*

12           *“(i) PLANS NOT IN EXISTENCE IN PRE-*  
13           *CEDING YEAR.—In the case of the first plan*  
14           *year of any plan, subparagraph (B) shall*  
15           *apply to such plan by taking into account*  
16           *the number of participants that the plan is*  
17           *reasonably expected to have on days during*  
18           *such first plan year.*

19           *“(ii) PREDECESSORS.—Any reference*  
20           *in subparagraph (B) to an employer shall*  
21           *include a reference to any predecessor of*  
22           *such employer.*

23           *“(3) AUTHORIZATION OF USE OF ACTUARIAL*  
24           *VALUE.—For purposes of this section, the value of*  
25           *plan assets shall be determined on the basis of any*

1        *reasonable actuarial method of valuation which takes*  
2        *into account fair market value and which is per-*  
3        *mitted under regulations prescribed by the Secretary,*  
4        *except that—*

5                *“(A) any such method providing for aver-*  
6                *aging of fair market values may not provide for*  
7                *averaging of such values over more than the 3*  
8                *most recent plan years (including the current*  
9                *plan year), and*

10               *“(B) any such method may not result in a*  
11               *determination of the value of plan assets which,*  
12               *at any time, is lower than 90 percent or greater*  
13               *than 110 percent of the fair market value of such*  
14               *assets at such time.*

15               *“(4) ACCOUNTING FOR CONTRIBUTION RE-*  
16               *CEIPTS.—For purposes of this section—*

17               *“(A) CONTRIBUTIONS FOR PRIOR PLAN*  
18               *YEARS TAKEN INTO ACCOUNT.—For purposes of*  
19               *determining the value of plan assets for any cur-*  
20               *rent plan year, in any case in which a contribu-*  
21               *tion properly allocable to amounts owed for a*  
22               *preceding plan year is made on or after the*  
23               *valuation date of the plan for such current plan*  
24               *year, such contribution shall be taken into ac-*  
25               *count, except that any such contribution made*

1        *during any such current plan year beginning*  
2        *after 2007 shall be taken into account only in an*  
3        *amount equal to its present value (determined*  
4        *using the effective rate of interest for the plan for*  
5        *the preceding plan year) as of the valuation date*  
6        *of the plan for such current plan year.*

7                *“(B) CONTRIBUTIONS FOR CURRENT PLAN*  
8        *YEAR DISREGARDED.—For purposes of deter-*  
9        *mining the value of plan assets for any current*  
10       *plan year, contributions which are properly allo-*  
11       *cable to amounts owed for such plan year shall*  
12       *not be taken into account, and, in the case of*  
13       *any such contribution made before the valuation*  
14       *date of the plan for such plan year, such value*  
15       *of plan assets shall be reduced for interest on*  
16       *such amount determined using the effective rate*  
17       *of interest of the plan for the current plan year*  
18       *for the period beginning when such payment was*  
19       *made and ending on the valuation date of the*  
20       *plan.*

21                *“(5) ACCOUNTING FOR PLAN LIABILITIES.—For*  
22       *purposes of this section—*

23                *“(A) LIABILITIES TAKEN INTO ACCOUNT*  
24       *FOR CURRENT PLAN YEAR.—In determining the*  
25       *value of liabilities under a plan for a plan year,*

1           *liabilities shall be taken into account to the ex-*  
2           *tent attributable to benefits (including any early*  
3           *retirement or similar benefit) accrued or earned*  
4           *as of the beginning of the plan year.*

5           “(B) *ACCRUALS DURING CURRENT PLAN*  
6           *YEAR DISREGARDED.*—*For purposes of subpara-*  
7           *graph (A), benefits accrued or earned during*  
8           *such plan year shall not be taken into account,*  
9           *irrespective of whether the valuation date of the*  
10          *plan for such plan year is later than the first*  
11          *day of such plan year.*

12          “(h) *ACTUARIAL ASSUMPTIONS AND METHODS.*—

13                 “(1) *IN GENERAL.*—*Subject to this subsection,*  
14                 *the determination of any present value or other com-*  
15                 *putation under this section shall be made on the basis*  
16                 *of actuarial assumptions and methods—*

17                         “(A) *each of which is reasonable (taking*  
18                         *into account the experience of the plan and rea-*  
19                         *sonable expectations), and*

20                         “(B) *which, in combination, offer the actu-*  
21                         *ary’s best estimate of anticipated experience*  
22                         *under the plan.*

23                 “(2) *INTEREST RATES.*—

24                         “(A) *EFFECTIVE INTEREST RATE.*—*For*  
25                         *purposes of this section, the term ‘effective inter-*





1 *est rate’ means, with respect to any plan for any*  
2 *plan year, the single rate of interest which, if*  
3 *used to determine the present value of the plan’s*  
4 *liabilities referred to in subsection (d)(1), would*  
5 *result in an amount equal to the funding target*  
6 *of the plan for such plan year.*

7 “(B) *INTEREST RATES FOR DETERMINING*  
8 *FUNDING TARGET.—For purposes of determining*  
9 *the funding target of a plan for any plan year,*  
10 *the interest rate used in determining the present*  
11 *value of the liabilities of the plan shall be—*

12 “(i) *in the case of liabilities reasonably*  
13 *determined to be payable during the 5-year*  
14 *period beginning on the first day of the*  
15 *plan year, the first segment rate with re-*  
16 *spect to the applicable month,*

17 “(ii) *in the case of liabilities reason-*  
18 *ably determined to be payable during the*  
19 *15-year period beginning at the end of the*  
20 *period described in clause (i), the second*  
21 *segment rate with respect to the applicable*  
22 *month, and*

23 “(iii) *in the case of liabilities reason-*  
24 *ably determined to be payable after the pe-*  
25 *riod described in clause (ii), the third seg-*

1                    *ment rate with respect to the applicable*  
2                    *month.*

3                    *“(C) SEGMENT RATES.—For purposes of*  
4                    *this paragraph—*

5                    *“(i) FIRST SEGMENT RATE.—The term*  
6                    *‘first segment rate’ means, with respect to*  
7                    *any month, the single rate of interest which*  
8                    *shall be determined by the Secretary for*  
9                    *such month on the basis of the corporate*  
10                   *bond yield curve for such month, taking*  
11                   *into account only that portion of such yield*  
12                   *curve which is based on bonds maturing*  
13                   *during the 5-year period commencing with*  
14                   *such month.*

15                   *“(ii) SECOND SEGMENT RATE.—The*  
16                   *term ‘second segment rate’ means, with re-*  
17                   *spect to any month, the single rate of inter-*  
18                   *est which shall be determined by the Sec-*  
19                   *retary for such month on the basis of the*  
20                   *corporate bond yield curve for such month,*  
21                   *taking into account only that portion of*  
22                   *such yield curve which is based on bonds*  
23                   *maturing during the 15-year period begin-*  
24                   *ning at the end of the period described in*  
25                   *clause (i).*

1                   “(iii) *THIRD SEGMENT RATE.*—The  
2                   term ‘third segment rate’ means, with re-  
3                   spect to any month, the single rate of inter-  
4                   est which shall be determined by the Sec-  
5                   retary for such month on the basis of the  
6                   corporate bond yield curve for such month,  
7                   taking into account only that portion of  
8                   such yield curve which is based on bonds  
9                   maturing during periods beginning after  
10                  the period described in clause (ii).

11                  “(D) *CORPORATE BOND YIELD CURVE.*—For  
12                  purposes of this paragraph—

13                         “(i) *IN GENERAL.*—The term ‘corporate  
14                         bond yield curve’ means, with respect to  
15                         any month, a yield curve which is pre-  
16                         scribed by the Secretary for such month and  
17                         which reflects a 3-year weighted average of  
18                         yields on investment grade corporate bonds  
19                         with varying maturities.

20                         “(ii) *3-YEAR WEIGHTED AVERAGE.*—  
21                         The term ‘3-year weighted average’ means  
22                         an average determined by using a method-  
23                         ology under which the most recent year is  
24                         weighted 50 percent, the year preceding  
25                         such year is weighted 35 percent, and the

1                   *second year preceding such year is weighted*  
2                   *15 percent.*

3                   “(E) *APPLICABLE MONTH.*—*For purposes of*  
4                   *this paragraph, the term ‘applicable month’*  
5                   *means, with respect to any plan for any plan*  
6                   *year, the month which includes the valuation*  
7                   *date of such plan for such plan year or, at the*  
8                   *election of the plan sponsor, any of the 4 months*  
9                   *which precede such month. Any election made*  
10                   *under this subparagraph shall apply to the plan*  
11                   *year for which the election is made and all suc-*  
12                   *ceeding plan years, unless the election is revoked*  
13                   *with the consent of the Secretary.*

14                   “(F) *PUBLICATION REQUIREMENTS.*—*The*  
15                   *Secretary shall publish for each month the cor-*  
16                   *porate bond yield curve (and the corporate bond*  
17                   *yield curve reflecting the modification described*  
18                   *in section 417(e)(3)(A)(iv)(I)) for such month*  
19                   *and each of the rates determined under subpara-*  
20                   *graph (B) for such month. The Secretary shall*  
21                   *also publish a description of the methodology*  
22                   *used to determine such yield curve and such*  
23                   *rates which is sufficiently detailed to enable*  
24                   *plans to make reasonable projections regarding*  
25                   *the yield curve and such rates for future months*

1           *based on the plan's projection of future interest*  
2           *rates.*

3           “(G) *TRANSITION RULE.*—

4                 “(i) *IN GENERAL.*—*Notwithstanding*  
5                 *the preceding provisions of this paragraph,*  
6                 *for plan years beginning in 2007 or 2008,*  
7                 *the first, second, or third segment rate for a*  
8                 *plan with respect to any month shall be*  
9                 *equal to the sum of—*

10                         “(I) *the product of such rate for*  
11                         *such month determined without regard*  
12                         *to this subparagraph, multiplied by the*  
13                         *applicable percentage, and*

14                         “(II) *the product of the rate deter-*  
15                         *mined under the rules of section*  
16                         *412(b)(5)(B)(ii)(II) (as in effect for*  
17                         *plan years beginning in 2006), multi-*  
18                         *plied by a percentage equal to 100 per-*  
19                         *cent minus the applicable percentage.*

20                         “(ii) *APPLICABLE PERCENTAGE.*—*For*  
21                         *purposes of clause (i), the applicable per-*  
22                         *centage is 33<sup>1</sup>/<sub>3</sub> percent for plan years be-*  
23                         *ginning in 2007 and 66<sup>2</sup>/<sub>3</sub> percent for plan*  
24                         *years beginning in 2008.*



1 “(iii) *NEW PLANS INELIGIBLE.*—

2 *Clause (i) shall not apply to any plan if the*  
3 *first plan year of the plan begins after De-*  
4 *cember 31, 2006.*

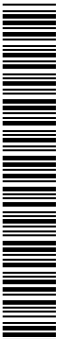
5 “(3) *MORTALITY TABLE.*—

6 “(A) *IN GENERAL.*—*Except as provided in*  
7 *subparagraph (C), the mortality table used in*  
8 *determining any present value or making any*  
9 *computation under this section shall be the RP-*  
10 *2000 Combined Mortality Table, using Scale AA,*  
11 *as published by the Society of Actuaries, as in*  
12 *effect on the date of the enactment of the Pension*  
13 *Protection Act of 2005 and as revised from time*  
14 *to time under subparagraph (B).*

15 “(B) *PERIODIC REVISION.*—*The Secretary*  
16 *shall (at least every 10 years) make revisions in*  
17 *any table in effect under subparagraph (A) to re-*  
18 *flect the actual experience of pension plans and*  
19 *projected trends in such experience.*

20 “(C) *SUBSTITUTE MORTALITY TABLE.*—

21 “(i) *IN GENERAL.*—*Upon request by*  
22 *the plan sponsor and approval by the Sec-*  
23 *retary for a period not to exceed 10 years,*  
24 *a mortality table which meets the require-*  
25 *ments of clause (ii) shall be used in deter-*



1            *mining any present value or making any*  
2            *computation under this section. A mortality*  
3            *table described in this clause shall cease to*  
4            *be in effect if the plan actuary determines*  
5            *at any time that such table does not meet*  
6            *the requirements of subclauses (I) and (II)*  
7            *of clause (ii).*

8            “(ii) *REQUIREMENTS.—A mortality*  
9            *table meets the requirements of this clause if*  
10           *the Secretary determines that—*

11                    “(I) *such table reflects the actual*  
12                    *experience of the pension plan and*  
13                    *projected trends in such experience,*  
14                    *and*

15                    “(II) *such table is significantly*  
16                    *different from the table described in*  
17                    *subparagraph (A).*

18            “(iii) *DEADLINE FOR DISPOSITION OF*  
19            *APPLICATION.—Any mortality table sub-*  
20            *mitted to the Secretary for approval under*  
21            *this subparagraph shall be treated as in ef-*  
22            *fect for the succeeding plan year unless the*  
23            *Secretary, during the 180-day period begin-*  
24            *ning on the date of such submission, dis-*  
25            *approves of such table and provides the rea-*

1                   sons that such table fails to meet the re-  
2                   quirements of clause (ii).

3                   “(D) *TRANSITION RULE.*—Under regula-  
4                   tions of the Secretary, any difference in assump-  
5                   tions as set forth in the mortality table specified  
6                   in subparagraph (A) and assumptions as set  
7                   forth in the mortality table described in section  
8                   412(l)(7)(C)(ii) (as in effect for plan years be-  
9                   ginning in 2006) shall be phased in ratably over  
10                  the first period of 5 plan years beginning in or  
11                  after 2007 so as to be fully effective for the fifth  
12                  plan year. The preceding sentence shall not  
13                  apply to any plan if the first plan year of the  
14                  plan begins after December 31, 2006.

15               “(4) *PROBABILITY OF BENEFIT PAYMENTS IN*  
16               *THE FORM OF LUMP SUMS OR OTHER OPTIONAL*  
17               *FORMS.*—For purposes of determining any present  
18               value or making any computation under this section,  
19               there shall be taken into account—

20               “(A) the probability that future benefit pay-  
21               ments under the plan will be made in the form  
22               of optional forms of benefits provided under the  
23               plan (including lump sum distributions, deter-  
24               mined on the basis of the plan’s experience and  
25               other related assumptions), and



1           “(B) any difference in the present value of  
2           such future benefit payments resulting from the  
3           use of actuarial assumptions, in determining  
4           benefit payments in any such optional form of  
5           benefits, which are different from those specified  
6           in this subsection.

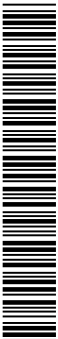
7           “(5) APPROVAL OF LARGE CHANGES IN ACTU-  
8           ARIAL ASSUMPTIONS.—

9           “(A) IN GENERAL.—No actuarial assump-  
10          tion used to determine the funding target for a  
11          plan to which this paragraph applies may be  
12          changed without the approval of the Secretary.

13          “(B) PLANS TO WHICH PARAGRAPH AP-  
14          PLIES.—This paragraph shall apply to a plan  
15          only if—

16               “(i) the plan is a defined benefit plan  
17               (other than a multiemployer plan) to which  
18               title IV of the Employee Retirement Income  
19               Security Act of 1974 applies,

20               “(ii) the aggregate unfunded vested  
21               benefits as of the close of the preceding plan  
22               year (as determined under section  
23               4006(a)(3)(E)(iii) of the Employee Retirement  
24               Income Security Act of 1974) of such  
25               plan and all other plans maintained by the



1           *contributing sponsors (as defined in section*  
2           *4001(a)(13) of such Act) and members of*  
3           *such sponsors' controlled groups (as defined*  
4           *in section 4001(a)(14) of such Act) which*  
5           *are covered by title IV (disregarding plans*  
6           *with no unfunded vested benefits) exceed*  
7           *\$50,000,000, and*

8           *“(iii) the change in assumptions (de-*  
9           *termined after taking into account any*  
10          *changes in interest rate and mortality*  
11          *table) results in a decrease in the funding*  
12          *shortfall of the plan for the current plan*  
13          *year that exceeds \$50,000,000, or that ex-*  
14          *ceeds \$5,000,000 and that is 5 percent or*  
15          *more of the funding target of the plan before*  
16          *such change.*

17          “(i) *SPECIAL RULES FOR AT-RISK PLANS.—*

18                 “(1) *FUNDING TARGET FOR PLANS IN AT-RISK*  
19          *STATUS.—*

20                 “(A) *IN GENERAL.—In any case in which a*  
21                 *plan is in at-risk status for a plan year, the*  
22                 *funding target of the plan for the plan year is*  
23                 *the sum of—*

24                         “(i) *the present value of all liabilities*  
25                         *to participants and their beneficiaries*

1                   *under the plan for the plan year, as deter-*  
2                   *mined by using, in addition to the actu-*  
3                   *arial assumptions described in subsection*  
4                   *(g), the supplemental actuarial assumptions*  
5                   *described in subparagraph (B), plus*

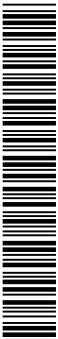
6                   *“(ii) a loading factor determined*  
7                   *under subparagraph (C).*

8                   *“(B) SUPPLEMENTAL ACTUARIAL ASSUMP-*  
9                   *TIONS.—The actuarial assumptions used in de-*  
10                  *termining the valuation of the funding target*  
11                  *shall include, in addition to the actuarial as-*  
12                  *sumptions described in subsection (h), an as-*  
13                  *sumption that all participants will elect benefits*  
14                  *at such times and in such forms as will result*  
15                  *in the highest present value of liabilities under*  
16                  *subparagraph (A)(i).*

17                  *“(C) LOADING FACTOR.—The loading factor*  
18                  *applied with respect to a plan under this para-*  
19                  *graph for any plan year is the sum of—*

20                  *“(i) \$700, times the number of partici-*  
21                  *pants in the plan, plus*

22                  *“(ii) 4 percent of the funding target*  
23                  *(determined without regard to this para-*  
24                  *graph) of the plan for the plan year.*



1           “(2) *TARGET NORMAL COST OF AT-RISK*  
2           *PLANS.—In any case in which a plan is in at-risk*  
3           *status for a plan year, the target normal cost of the*  
4           *plan for such plan year shall be the sum of—*

5                     “(A) *the present value of all benefits which*  
6                     *are expected to accrue or be earned under the*  
7                     *plan during the plan year, determined under the*  
8                     *actuarial assumptions used under paragraph*  
9                     *(1), plus*

10                    “(B) *the loading factor under paragraph*  
11                    *(1)(C), excluding the portion of the loading fac-*  
12                    *tor described in paragraph (1)(C)(i).*

13           “(3) *DETERMINATION OF AT-RISK STATUS.—For*  
14           *purposes of this subsection, a plan is in ‘at-risk sta-*  
15           *tus’ for a plan year if the funding target attainment*  
16           *percentage of the plan for the preceding plan year*  
17           *was less than 60 percent.*

18           “(4) *TRANSITION BETWEEN APPLICABLE FUND-*  
19           *ING TARGETS AND BETWEEN APPLICABLE TARGET*  
20           *NORMAL COSTS.—*

21                    “(A) *IN GENERAL.—In any case in which a*  
22                    *plan which is in at-risk status for a plan year*  
23                    *has been in such status for a consecutive period*  
24                    *of fewer than 5 plan years, the applicable*  
25                    *amount of the funding target and of the target*

1           *normal cost shall be, in lieu of the amount deter-*  
2           *mined without regard to this paragraph, the sum*  
3           *of—*

4                     *“(i) the amount determined under this*  
5                     *section without regard to this subsection,*  
6                     *plus*

7                     *“(ii) the transition percentage for such*  
8                     *plan year of the excess of the amount deter-*  
9                     *mined under this subsection (without regard*  
10                    *to this paragraph) over the amount deter-*  
11                    *mined under this section without regard to*  
12                    *this subsection.*

13                    *“(B) TRANSITION PERCENTAGE.—For pur-*  
14                    *poses of this paragraph, the ‘transition percent-*  
15                    *age’ for a plan year is the product derived by*  
16                    *multiplying—*

17                             *“(i) 20 percent, by*

18                             *“(ii) the number of plan years during*  
19                             *the period described in subparagraph (A).*

20            *“(j) PAYMENT OF MINIMUM REQUIRED CONTRIBU-*  
21            *TIONS.—*

22                     *“(1) IN GENERAL.—For purposes of this section,*  
23                     *the due date for any payment of any minimum re-*  
24                     *quired contribution for any plan year shall be 8½*  
25                     *months after the close of the plan year.*

1           “(2) *INTEREST.*—Any payment required under  
2           paragraph (1) for a plan year that is made on a date  
3           other than the valuation date for such plan year shall  
4           be adjusted for interest accruing for the period be-  
5           tween the valuation date and the payment date, at  
6           the effective rate of interest for the plan for such plan  
7           year.

8           “(3) *ACCELERATED QUARTERLY CONTRIBUTION*  
9           *SCHEDULE FOR UNDERFUNDED PLANS.*—

10           “(A) *INTEREST PENALTY FOR FAILURE TO*  
11           *MEET ACCELERATED QUARTERLY PAYMENT*  
12           *SCHEDULE.*—In any case in which the plan has  
13           a funding shortfall for the preceding plan year,  
14           if the required installment is not paid in full,  
15           then the minimum required contribution for the  
16           plan year (as increased under paragraph (2))  
17           shall be further increased by an amount equal to  
18           the interest on the amount of the underpayment  
19           for the period of the underpayment, using an in-  
20           terest rate equal to the excess of—

21           “(i) 175 percent of the Federal mid-  
22           term rate (as in effect under section 1274  
23           for the 1st month of such plan year), over

24           “(ii) the effective rate of interest for the  
25           plan for the plan year.

1                   “(B) *AMOUNT OF UNDERPAYMENT, PERIOD*  
2                   *OF UNDERPAYMENT.—For purposes of subpara-*  
3                   *graph (A)—*

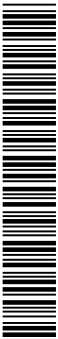
4                   “(i) *AMOUNT.—The amount of the un-*  
5                   *derpayment shall be the excess of—*

6                   “(I) *the required installment, over*

7                   “(II) *the amount (if any) of the*  
8                   *installment contributed to or under the*  
9                   *plan on or before the due date for the*  
10                  *installment.*

11                  “(ii) *PERIOD OF UNDERPAYMENT.—*  
12                  *The period for which any interest is charged*  
13                  *under this paragraph with respect to any*  
14                  *portion of the underpayment shall run from*  
15                  *the due date for the installment to the date*  
16                  *on which such portion is contributed to or*  
17                  *under the plan.*

18                  “(iii) *ORDER OF CREDITING CON-*  
19                  *TRIBUTIONS.—For purposes of clause*  
20                  *(i)(II), contributions shall be credited*  
21                  *against unpaid required installments in the*  
22                  *order in which such installments are re-*  
23                  *quired to be paid.*



1                   “(C) *NUMBER OF REQUIRED INSTALL-*  
 2                   *MENTS; DUE DATES.—For purposes of this*  
 3                   *paragraph—*

4                   “(i) *PAYABLE IN 4 INSTALLMENTS.—*  
 5                   *There shall be 4 required installments for*  
 6                   *each plan year.*

7                   “(ii) *TIME FOR PAYMENT OF INSTALL-*  
 8                   *MENTS.—The due dates for required install-*  
 9                   *ments are set forth in the following table:*

<b><i>“In the case of the following required installment:</i></b>	<b><i>The due date is:</i></b>
---	--------------------------------

<i>1st</i> .....	<i>April 15</i>
<i>2nd</i> .....	<i>July 15</i>
<i>3rd</i> .....	<i>October 15</i>
<i>4th</i> .....	<i>January 15 of the fol- lowing year</i>

10                   “(D) *AMOUNT OF REQUIRED INSTALL-*  
 11                   *MENT.—For purposes of this paragraph—*

12                   “(i) *IN GENERAL.—The amount of any*  
 13                   *required installment shall be 25 percent of*  
 14                   *the required annual payment.*

15                   “(ii) *REQUIRED ANNUAL PAYMENT.—*  
 16                   *For purposes of clause (i), the term ‘re-*  
 17                   *quired annual payment’ means the lesser*  
 18                   *of—*

19                   “(I) *90 percent of the minimum*  
 20                   *required contribution (without regard*



1 *to any waiver under section 412(c)) to*  
2 *the plan for the plan year under this*  
3 *section, or*

4 *“(II) in the case of a plan year*  
5 *beginning after 2007, 100 percent of*  
6 *the minimum required contribution*  
7 *(without regard to any waiver under*  
8 *section 412(c)) to the plan for the pre-*  
9 *ceding plan year.*

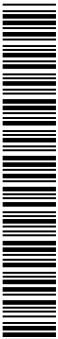
10 *Subclause (II) shall not apply if the pre-*  
11 *ceding plan year referred to in such clause*  
12 *was not a year of 12 months.*

13 *“(E) FISCAL YEARS AND SHORT YEARS.—*

14 *“(i) FISCAL YEARS.—In applying this*  
15 *paragraph to a plan year beginning on any*  
16 *date other than January 1, there shall be*  
17 *substituted for the months specified in this*  
18 *paragraph, the months which correspond*  
19 *thereto.*

20 *“(ii) SHORT PLAN YEAR.—This sub-*  
21 *paragraph shall be applied to plan years of*  
22 *less than 12 months in accordance with reg-*  
23 *ulations prescribed by the Secretary.*

24 *“(4) LIQUIDITY REQUIREMENT IN CONNECTION*  
25 *WITH QUARTERLY CONTRIBUTIONS.—*



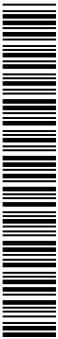
1           “(A) *IN GENERAL.*—A plan to which this  
2           paragraph applies shall be treated as failing to  
3           pay the full amount of any required installment  
4           under paragraph (3) to the extent that the value  
5           of the liquid assets paid in such installment is  
6           less than the liquidity shortfall (whether or not  
7           such liquidity shortfall exceeds the amount of  
8           such installment required to be paid but for this  
9           paragraph).

10           “(B) *PLANS TO WHICH PARAGRAPH AP-*  
11           *PLIES.*—This paragraph shall apply to a plan  
12           (other than a plan that would be described in  
13           subsection (f)(2)(B) if ‘100’ were substituted for  
14           ‘500’ therein) which—

15                   “(i) is required to pay installments  
16                   under paragraph (3) for a plan year, and

17                   “(ii) has a liquidity shortfall for any  
18                   quarter during such plan year.

19           “(C) *PERIOD OF UNDERPAYMENT.*—For  
20           purposes of paragraph (3)(A), any portion of an  
21           installment that is treated as not paid under  
22           subparagraph (A) shall continue to be treated as  
23           unpaid until the close of the quarter in which the  
24           due date for such installment occurs.



1           “(D) *LIMITATION ON INCREASE.*—If the  
2           *amount of any required installment is increased*  
3           *by reason of subparagraph (A), in no event shall*  
4           *such increase exceed the amount which, when*  
5           *added to prior installments for the plan year, is*  
6           *necessary to increase the funding target attain-*  
7           *ment percentage of the plan for the plan year*  
8           *(taking into account the expected increase in*  
9           *funding target due to benefits accruing or earned*  
10          *during the plan year) to 100 percent.*

11          “(E) *DEFINITIONS.*—For purposes of this  
12          *subparagraph:*

13               “(i) *LIQUIDITY SHORTFALL.*—The term  
14               *‘liquidity shortfall’ means, with respect to*  
15               *any required installment, an amount equal*  
16               *to the excess (as of the last day of the quar-*  
17               *ter for which such installment is made) of—*

18                       “(I) *the base amount with respect*  
19                       *to such quarter, over*

20                       “(II) *the value (as of such last*  
21                       *day) of the plan’s liquid assets.*

22               “(ii) *BASE AMOUNT.*—

23                       “(I) *IN GENERAL.*—The term ‘base  
24                       *amount’ means, with respect to any*  
25                       *quarter, an amount equal to 3 times*

1           *the sum of the adjusted disbursements*  
2           *from the plan for the 12 months ending*  
3           *on the last day of such quarter.*

4                     “(II) *SPECIAL RULE.*—If the  
5           *amount determined under subclause (I)*  
6           *exceeds an amount equal to 2 times the*  
7           *sum of the adjusted disbursements from*  
8           *the plan for the 36 months ending on*  
9           *the last day of the quarter and an en-*  
10          *rolled actuary certifies to the satisfac-*  
11          *tion of the Secretary that such excess is*  
12          *the result of nonrecurring cir-*  
13          *cumstances, the base amount with re-*  
14          *spect to such quarter shall be deter-*  
15          *mined without regard to amounts re-*  
16          *lated to those nonrecurring cir-*  
17          *cumstances.*

18                    “(iii) *DISBURSEMENTS FROM THE*  
19          *PLAN.*—The term ‘disbursements from the  
20          *plan’ means all disbursements from the*  
21          *trust, including purchases of annuities,*  
22          *payments of single sums and other benefits,*  
23          *and administrative expenses.*

24                    “(iv) *ADJUSTED DISBURSEMENTS.*—  
25          *The term ‘adjusted disbursements’ means*



1                   *disbursements from the plan reduced by the*  
2                   *product of—*

3                   “(I) *the plan’s funding target at-*  
4                   *tainment percentage for the plan year,*  
5                   *and*

6                   “(II) *the sum of the purchases of*  
7                   *annuities, payments of single sums,*  
8                   *and such other disbursements as the*  
9                   *Secretary shall provide in regulations.*

10                  “(v) *LIQUID ASSETS.—The term ‘liq-*  
11                  *uid assets’ means cash, marketable securi-*  
12                  *ties, and such other assets as specified by*  
13                  *the Secretary in regulations.*

14                  “(vi) *QUARTER.—The term ‘quarter’*  
15                  *means, with respect to any required install-*  
16                  *ment, the 3-month period preceding the*  
17                  *month in which the due date for such in-*  
18                  *stallment occurs.*

19                  “(F) *REGULATIONS.—The Secretary may*  
20                  *prescribe such regulations as are necessary to*  
21                  *carry out this paragraph.*

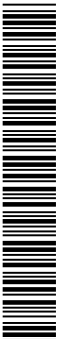
22                  “(k) *IMPOSITION OF LIEN WHERE FAILURE TO MAKE*  
23                  *REQUIRED CONTRIBUTIONS.—*

24                  “(1) *IN GENERAL.—In the case of a plan to*  
25                  *which this subsection applies, if—*

1           “(A) any person fails to make a contribu-  
2           tion payment required by section 412 and this  
3           section before the due date for such payment, and

4           “(B) the unpaid balance of such payment  
5           (including interest), when added to the aggregate  
6           unpaid balance of all preceding such payments  
7           for which payment was not made before the due  
8           date (including interest), exceeds \$1,000,000,  
9           then there shall be a lien in favor of the plan in the  
10          amount determined under paragraph (3) upon all  
11          property and rights to property, whether real or per-  
12          sonal, belonging to such person and any other person  
13          who is a member of the same controlled group of  
14          which such person is a member.

15          “(2) PLANS TO WHICH SUBSECTION APPLIES.—  
16          This subsection shall apply to a defined benefit plan  
17          (other than a multiemployer plan) for any plan year  
18          for which the funding target attainment percentage  
19          (as defined in subsection (d)(2)) of such plan is less  
20          than 100 percent. This subsection shall not apply to  
21          any plan to which section 4021 of the Employee Re-  
22          tirement Income Security Act of 1974 does not apply  
23          (as such section is in effect on the date of the enact-  
24          ment of the Pension Protection Act of 2005).



1           “(3) *AMOUNT OF LIEN.*—For purposes of para-  
2           graph (1), the amount of the lien shall be equal to the  
3           aggregate unpaid balance of contribution payments  
4           required under this section and section 412 for which  
5           payment has not been made before the due date.

6           “(4) *NOTICE OF FAILURE; LIEN.*—

7                   “(A) *NOTICE OF FAILURE.*—A person com-  
8                   mitting a failure described in paragraph (1)  
9                   shall notify the Pension Benefit Guaranty Cor-  
10                  poration of such failure within 10 days of the  
11                  due date for the required contribution payment.

12                  “(B) *PERIOD OF LIEN.*—The lien imposed  
13                  by paragraph (1) shall arise on the due date for  
14                  the required contribution payment and shall con-  
15                  tinue until the last day of the first plan year in  
16                  which the plan ceases to be described in para-  
17                  graph (1)(B). Such lien shall continue to run  
18                  without regard to whether such plan continues to  
19                  be described in paragraph (2) during the period  
20                  referred to in the preceding sentence.

21                  “(C) *CERTAIN RULES TO APPLY.*—Any  
22                  amount with respect to which a lien is imposed  
23                  under paragraph (1) shall be treated as taxes  
24                  due and owing the United States and rules simi-  
25                  lar to the rules of subsections (c), (d), and (e) of

1           *section 4068 of the Employee Retirement Income*  
2           *Security Act of 1974 shall apply with respect to*  
3           *a lien imposed by subsection (a) and the amount*  
4           *with respect to such lien.*

5           “(5) *ENFORCEMENT.*—*Any lien created under*  
6           *paragraph (1) may be perfected and enforced only by*  
7           *the Pension Benefit Guaranty Corporation, or at the*  
8           *direction of the Pension Benefit Guaranty Corpora-*  
9           *tion, by the contributing sponsor (or any member of*  
10          *the controlled group of the contributing sponsor).*

11          “(6) *DEFINITIONS.*—*For purposes of this*  
12          *subsection—*

13               “(A) *CONTRIBUTION PAYMENT.*—*The term*  
14               *‘contribution payment’ means, in connection*  
15               *with a plan, a contribution payment required to*  
16               *be made to the plan, including any required in-*  
17               *stallment under paragraphs (3) and (4) of sub-*  
18               *section (i).*

19               “(B) *DUE DATE; REQUIRED INSTALL-*  
20               *MENT.*—*The terms ‘due date’ and ‘required in-*  
21               *stallment’ have the meanings given such terms*  
22               *by subsection (j), except that in the case of a*  
23               *payment other than a required installment, the*  
24               *due date shall be the date such payment is re-*  
25               *quired to be made under section 430.*



1                   “(C) *CONTROLLED GROUP*.—The term ‘con-  
2                   trolled group’ means any group treated as a sin-  
3                   gle employer under subsections (b), (c), (m), and  
4                   (o) of section 414.

5                   “(l) *QUALIFIED TRANSFERS TO HEALTH BENEFIT AC-*  
6                   *COUNTS*.—In the case of a qualified transfer (as defined in  
7                   section 420), any assets so transferred shall not, for pur-  
8                   poses of this section, be treated as assets in the plan.”.

9                   (b) *EFFECTIVE DATE*.—The amendments made by this  
10                  section shall apply with respect to plan years beginning  
11                  after December 31, 2006.

12               **SEC. 113. BENEFIT LIMITATIONS UNDER SINGLE-EMPLOYER**  
13               **PLANS.**

14               (a) *PROHIBITION OF SHUTDOWN BENEFITS AND*  
15               *OTHER UNPREDICTABLE CONTINGENT EVENT BENEFITS*  
16               *UNDER SINGLE-EMPLOYER PLANS*.—

17                   (1) *IN GENERAL*.—Part III of subchapter D of  
18                   chapter 1 of the Internal Revenue Code of 1986 (relat-  
19                   ing to deferred compensation, etc.) is amended—

20                               (A) by striking the heading and inserting  
21                               the following:

22               **“PART III—RULES RELATING TO MINIMUM FUND-**  
23               **ING STANDARDS AND BENEFIT LIMITATIONS**

“Subpart A. Minimum funding standards for pension plans.

“Subpart B. Benefit limitations under single-employer plans.

1       **“Subpart A—Minimum Funding Standards for**  
2                               **Pension Plans**

“Sec. 430. *Minimum funding standards for single-employer defined benefit pension plans.*”, and

3                               *(B) by adding at the end the following new*  
4                               *subpart:*

5       **“Subpart B—Benefit Limitations Under Single-**  
6                               **employer Plans**

“Sec. 436. *Prohibition of shutdown benefits and other unpredictable contingent event benefits under single-employer plans.*

7   **“SEC. 436. PROHIBITION OF SHUTDOWN BENEFITS AND**  
8                               **OTHER UNPREDICTABLE CONTINGENT**  
9                               **EVENT BENEFITS UNDER SINGLE-EMPLOYER**  
10                              **PLANS.**

11       “(a) *IN GENERAL.*—No pension plan which is defined  
12 *benefit plan (other than a multiemployer plan) may pro-*  
13 *vide benefits to which participants are entitled solely by*  
14 *reason of the occurrence of—*

15                              “(1) *a plant shutdown, or*

16                              “(2) *any other unpredictable contingent event.*

17       “(b) *UNPREDICTABLE CONTINGENT EVENT.*—For pur-  
18 *poses of this subsection, the term ‘unpredictable contingent*  
19 *event’ means an event other than—*

20                              “(1) *attainment of any age, performance of any*  
21 *service, receipt or derivation of any compensation, or*  
22 *the occurrence of death or disability, or*

1           “(2) *an event which is reasonably and reliably*  
2           *predictable (as determined by the Secretary).”.*

3           (2) *CLERICAL AMENDMENT.—The table of parts*  
4           *for such chapter D of chapter 1 of the Internal Revenue*  
5           *Code of 1986 is amended by adding at the end the fol-*  
6           *lowing new item:*

          “*PART III—RULES RELATING TO MINIMUM FUNDING STANDARDS AND*  
          *BENEFIT LIMITATIONS”.*

7           (b) *OTHER LIMITS ON BENEFITS AND BENEFIT AC-*  
8           *CRUALS.—*

9           (1) *IN GENERAL.—Subpart B of part III of sub-*  
10          *chapter D of chapter 1 of such Code is amended by*  
11          *adding at the end the following:*

12         “**SEC. 437. FUNDING-BASED LIMITS ON BENEFITS AND BEN-**  
13                 **EFIT ACCRUALS UNDER SINGLE-EMPLOYER**  
14                 **PLANS.**”

15         “(a) *LIMITATIONS ON PLAN AMENDMENTS INCREASING*  
16         *LIABILITY FOR BENEFITS.—*

17         “(1) *IN GENERAL.—No amendment to a defined*  
18         *benefit plan (other than a multiemployer plan) which*  
19         *has the effect of increasing liabilities of the plan by*  
20         *reason of increases in benefits, establishment of new*  
21         *benefits, changing the rate of benefit accrual, or*  
22         *changing the rate at which benefits become nonforfeit-*  
23         *able to the plan may take effect during any plan year*

1       *if the funding target attainment percentage as of the*  
2       *valuation date of the plan for such plan year is—*

3               “(A) *less than 80 percent, or*

4               “(B) *would be less than 80 percent taking*  
5       *into account such amendment.*

6       *For purposes of this subparagraph, any increase in*  
7       *benefits under the plan by reason of an increase in*  
8       *the benefit rate provided under the plan or on the*  
9       *basis of an increase in compensation shall be treated*  
10      *as effected by plan amendment.*

11           “(2) *EXEMPTION.—Paragraph (1) shall cease to*  
12      *apply with respect to any plan year, effective as of*  
13      *the first date of the plan year (or if later, the effective*  
14      *date of the amendment), upon payment by the plan*  
15      *sponsor of a contribution (in addition to any min-*  
16      *imum required contribution under section 430) equal*  
17      *to—*

18               “(A) *in the case of paragraph (1)(A), the*  
19      *amount of the increase in the funding target of*  
20      *the plan (under section 430) for the plan year*  
21      *attributable to the amendment, and*

22               “(B) *in the case of paragraph (1)(B), the*  
23      *amount sufficient to result in a funding target*  
24      *attainment percentage of 80 percent.*

1       “(b) *FUNDING-BASED LIMITATION ON CERTAIN FORMS*  
2 *OF DISTRIBUTION.*—

3               “(1) *IN GENERAL.*—A defined benefit plan (other  
4       than a multiemployer plan) shall provide that, in  
5       any case in which the plan’s funding target attain-  
6       ment percentage as of the valuation date of the plan  
7       for a plan year is less than 80 percent, the plan may  
8       not after such date pay any payment described in sec-  
9       tion 401(a)(32)(B).

10              “(2) *EXCEPTION.*—Paragraph (1) shall not  
11       apply to any plan for any plan year if the terms of  
12       such plan (as in effect for the period beginning on  
13       June 29, 2005, and ending with such plan year) pro-  
14       vide for no benefit accruals with respect to any par-  
15       ticipant during such period.

16              “(c) *LIMITATIONS ON BENEFIT ACCRUALS FOR PLANS*  
17 *WITH SEVERE FUNDING SHORTFALLS.*—A defined benefit  
18       plan (other than a multiemployer plan) shall provide that,  
19       in any case in which the plan’s funding target attainment  
20       percentage as of the valuation date of the plan for a plan  
21       year is less than 60 percent, all future benefit accruals  
22       under the plan shall cease as of such date.

23              “(d) *NEW PLANS.*—Subsections (a) and (c) shall not  
24       apply to a plan for the first 5 plan years of the plan. For

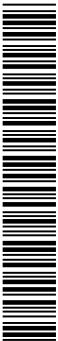


1 *purposes of this subsection, the reference in this subsection*  
2 *to a plan shall include a reference to any predecessor plan.*

3 “(e) *PRESUMED UNDERFUNDING FOR PURPOSES OF*  
4 *BENEFIT LIMITATIONS BASED ON PRIOR YEAR’S FUNDING*  
5 *STATUS.—*

6 “(1) *PRESUMPTION OF CONTINUED UNDER-*  
7 *FUNDING.—In any case in which a benefit limitation*  
8 *under subsection (a), (b), or (c) has been applied to*  
9 *a plan with respect to the plan year preceding the*  
10 *current plan year, the funding target attainment per-*  
11 *centage of the plan as of the valuation date of the*  
12 *plan for the current plan year shall be presumed to*  
13 *be equal to the funding target attainment percentage*  
14 *of the plan as of the valuation date of the plan for*  
15 *the preceding plan year until the enrolled actuary of*  
16 *the plan certifies the actual funding target attain-*  
17 *ment percentage of the plan as of the valuation date*  
18 *of the plan for the current plan year.*

19 “(2) *PRESUMPTION OF UNDERFUNDING AFTER*  
20 *10TH MONTH.—In any case in which no such certifi-*  
21 *cation is made with respect to the plan before the first*  
22 *day of the 10th month of the current plan year, for*  
23 *purposes of subsections (a), (b), and (c), the plan’s*  
24 *funding target attainment percentage shall be conclu-*  
25 *sively presumed to be less than 60 percent as of the*



1 *first day of such 10th month, and such day shall be*  
2 *deemed, for purposes of such subsections, to be the*  
3 *valuation date of the plan for the current plan year.*

4 “(3) *PRESUMPTION OF UNDERFUNDING AFTER*  
5 *4TH MONTH FOR NEARLY UNDERFUNDED PLANS.—In*  
6 *any case in which—*

7 “(A) *a benefit limitation under subsection*  
8 *(a), (b), or (c) did not apply to a plan with re-*  
9 *spect to the plan year preceding the current plan*  
10 *year, but the funding target attainment percent-*  
11 *age of the plan for such preceding plan year was*  
12 *not more than 10 percentage points greater than*  
13 *the percentage which would have caused such*  
14 *subsection to apply to the plan with respect to*  
15 *such preceding plan year, and*

16 “(B) *as of the first day of the 4th month of*  
17 *the current plan year, the enrolled actuary of the*  
18 *plan has not certified the actual funding target*  
19 *attainment percentage of the plan as of the valu-*  
20 *ation date of the plan for the current plan year,*  
21 *until the enrolled actuary so certifies, such first day*  
22 *shall be deemed, for purposes of such subsection, to be*  
23 *the valuation date of the plan for the current plan*  
24 *year and the funding target attainment percentage of*  
25 *the plan as of such first day shall, for purposes of*

1        *such subsection, be presumed to be equal to 10 per-*  
2        *centage points less than the funding target attainment*  
3        *percentage of the plan as of the valuation date of the*  
4        *plan for such preceding plan year.*

5        “(f) *RESTORATION BY PLAN AMENDMENT OF BENE-*  
6        *FITS OR BENEFIT ACCRUAL.—In any case in which a pro-*  
7        *hibition under subsection (b) of the payment of lump sum*  
8        *distributions or benefits in any other accelerated form or*  
9        *a cessation of benefit accruals under subsection (c) is ap-*  
10       *plied to a plan with respect to any plan year and such*  
11       *prohibition or cessation, as the case may be, ceases to apply*  
12       *to any subsequent plan year, the plan may provide for the*  
13       *resumption of such benefit payment or such benefit accrual*  
14       *only by means of the adoption of a plan amendment after*  
15       *the valuation date of the plan for such subsequent plan*  
16       *year. The preceding sentence shall not apply to a prohibi-*  
17       *tion or cessation required by reason of subsection (e).*

18       “(g) *FUNDING TARGET ATTAINMENT PERCENTAGE.—*

19                “(1) *IN GENERAL.—For purposes of this section,*  
20        *the term ‘funding target attainment percentage’*  
21        *means, with respect to any plan for any plan year,*  
22        *the ratio (expressed as a percentage) which—*

23                “(A) *the value of plan assets for the plan*  
24                *year (as determined under section 430(g)) re-*  
25                *duced by the pre-funding balance and the fund-*



1            *ing standard carryover balance (within the*  
2            *meaning of section 430(f)), bears to*

3            *“(B) the funding target of the plan for the*  
4            *plan year (as determined under section*  
5            *430(d)(1), but without regard to section*  
6            *430(i)(1)).*

7            *“(2) APPLICATION TO PLANS WHICH ARE FULLY*  
8            *FUNDED WITHOUT REGARD TO REDUCTIONS FOR*  
9            *FUNDING BALANCES.—In the case of a plan for any*  
10           *plan year, if the funding target attainment percent-*  
11           *age is 100 percent or more (determined without re-*  
12           *gard to this paragraph and without regard to the re-*  
13           *duction under paragraph (1)(A) for the pre-funding*  
14           *balance and the funding standard carryover balance),*  
15           *paragraph (1) shall be applied without regard to such*  
16           *reduction.”.*

17           *(2) CLERICAL AMENDMENT.—The table of sec-*  
18           *tions for such subpart is amended by adding at the*  
19           *end the following new item:*

*“Sec. 437. Funding-based limits on benefits and benefit accruals under single-em-*  
          *ployer plans.”.*

20           *(c) SPECIAL RULE FOR PLAN AMENDMENTS.—A plan*  
21           *shall not fail to meet the requirements of section 411(d)(6)*  
22           *of the Internal Revenue Code of 1986 or section 204(g) of*  
23           *the Employee Retirement Income Security Act of 1974 sole-*  
24           *ly by reason of the adoption by the plan of an amendment*

1 *necessary to meet the requirements of the amendments made*  
2 *by this section.*

3 *(d) EFFECTIVE DATE.—*

4 *(1) SHUTDOWN BENEFITS.—Except as provided*  
5 *in paragraph (3), the amendments made by sub-*  
6 *section (a) shall apply with respect to plant shut-*  
7 *downs, or other unpredictable contingent events, oc-*  
8 *curing after December 31, 2006.*

9 *(2) OTHER BENEFITS.—Except as provided in*  
10 *paragraph (3), the amendments made by subsection*  
11 *(b) shall apply with respect to plan years beginning*  
12 *after December 31, 2006.*

13 *(3) COLLECTIVE BARGAINING EXCEPTION.—In*  
14 *the case of a plan maintained pursuant to 1 or more*  
15 *collective bargaining agreements between employee*  
16 *representatives and 1 or more employers ratified be-*  
17 *fore the date of the enactment of this Act, the amend-*  
18 *ments made by this subsection shall not apply to plan*  
19 *years beginning before the earlier of—*

20 *(A) the later of—*

21 *(i) the date on which the last collective*  
22 *bargaining agreement relating to the plan*  
23 *terminates (determined without regard to*  
24 *any extension thereof agreed to after the*  
25 *date of the enactment of this Act), or*

1                   (ii) the first day of the first plan year  
2                   to which the amendments made by this sub-  
3                   section would (but for this subparagraph)  
4                   apply, or  
5                   (B) January 1, 2009.

6       For purposes of clause (i), any plan amendment  
7       made pursuant to a collective bargaining agreement  
8       relating to the plan which amends the plan solely to  
9       conform to any requirement added by this subsection  
10      shall not be treated as a termination of such collective  
11      bargaining agreement.

12      (e) *SPECIAL RULE FOR 2007.*—For purposes of apply-  
13      ing subsection (e) of section 437 of such Code (as added  
14      by this section) to current plan years (within the meaning  
15      of such subsection) beginning in 2007, the modified funded  
16      current liability percentage of the plan for the preceding  
17      year shall be substituted for the funding target attainment  
18      percentage of the plan for the preceding year. For purposes  
19      of the preceding sentence, the term “modified funded current  
20      liability percentage” means the funded current liability  
21      percentage (as defined in section 412(l)(8) of such Code),  
22      reduced as described in subparagraph (E) thereof in the  
23      case of a plan with a funded current liability percentage  
24      (as so defined and before such reduction) which is less than  
25      100 percent.

1 **SEC. 114. TECHNICAL AND CONFORMING AMENDMENTS.**

2 (a) *AMENDMENTS RELATED TO QUALIFICATION RE-*  
3 *QUIREMENTS.*—

4 (1) *Section 401(a)(29) of the Internal Revenue*  
5 *Code of 1986 is amended to read as follows:*

6 “(29) *BENEFIT LIMITATIONS ON PLANS IN AT-*  
7 *RISK STATUS.*—*In the case of a defined benefit plan*  
8 *(other than a multiemployer plan) to which the re-*  
9 *quirements of section 412 apply, the trust of which*  
10 *the plan is a part shall not constitute a qualified*  
11 *trust under this subsection unless the plan meets the*  
12 *requirements of sections 436 and 437.”.*

13 (2) *Section 401(a)(32) of such Code is*  
14 *amended—*

15 (A) *in subparagraph (A), by striking*  
16 *“412(m)(5)” each place it appears and inserting*  
17 *“430(j)(4)”, and*

18 (B) *in subparagraph (C), by striking “sec-*  
19 *tion 412(m) by reason of paragraph (5)(A)*  
20 *thereof” and inserting “section 430(j)(3) by rea-*  
21 *son of section 430(j)(4)(A)”.*

22 (3) *Section 401(a)(33) of such Code is*  
23 *amended—*

24 (A) *in subparagraph (B)(i), by striking*  
25 *“funded current liability percentage (as defined*  
26 *in section 412(l)(8))” and inserting “funding*

1           *target attainment percentage (as defined in sec-*  
2           *tion 430(d)(2))”,*

3                   *(B) in subparagraph (B)(iii), by striking*  
4           *“subsection 412(c)(8)” and inserting “section*  
5           *412(d)(2)”, and*

6                   *(C) in subparagraph (D), by striking “sec-*  
7           *tion 412(c)(11) (without regard to subparagraph*  
8           *(B) thereof)” and inserting “section 412(b)*  
9           *(without regard to paragraph (2) thereof)”.*

10       **(b) VESTING RULES.**—*Section 411 of such Code is*  
11       *amended—*

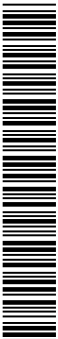
12                   *(1) by striking “section 412(c)(8)” in subsection*  
13       **(a)(3)(C)** *and inserting “section 412(d)(2)”,*

14                   *(2) in subsection (b)(1)(F)—*

15                   *(A) by striking “paragraphs (2) and (3) of*  
16           *section 412(i)” in clause (ii) and inserting “sub-*  
17           *paragraphs (B) and (C) of section 412(e)(3)”,*  
18           *and*

19                   *(B) by striking “paragraphs (4), (5), and*  
20           *(6) of section 412(i)” and inserting “subpara-*  
21           *graphs (D), (E), and (F) of section 412(e)(3)”,*  
22           *and*

23                   *(3) by striking “section 412(c)(8)” in subsection*  
24       **(d)(6)(A)** *and inserting “section 412(d)(2)”.*



1       (c) *MERGERS AND CONSOLIDATIONS OF PLANS.*—Sub-  
2   *clause (I) of section 414(l)(2)(B)(i) of such Code is amended*  
3   *to read as follows:*

4                       “(I) *the amount determined under*  
5                       *section 431(c)(6)(A)(i) in the case of a*  
6                       *multiemployer plan (and the sum of*  
7                       *the target liability amount and target*  
8                       *normal cost determined under section*  
9                       *430 in the case of any other plan),*  
10                      *over”.*

11       (d) *TRANSFER OF EXCESS PENSION ASSETS TO RE-*  
12   *TIREE HEALTH ACCOUNTS.*—

13               (1) *Section 420(e)(2) of such Code is amended to*  
14   *read as follows:*

15               “(2) *EXCESS PENSION ASSETS.*—*The term ‘excess*  
16   *pension assets’ means the excess (if any) of—*

17                      “(A) *the lesser of—*

18                      “(i) *the fair market value of the plan’s*  
19                      *assets (reduced by the pre-funding balance*  
20                      *and the funding standard carryover bal-*  
21                      *ance, as determined under section 430(f)),*  
22                      *or*

23                      “(ii) *the value of plan assets as deter-*  
24                      *mined under section 430(g)(3) (reduced by*  
25                      *the pre-funding balance and the funding*

1                   *standard carryover balance, as determined*  
2                   *under section 430(f)), over*

3                   *“(B) 125 percent of the sum of the target li-*  
4                   *ability amount and the target normal cost deter-*  
5                   *mined under section 430 for such plan year.”.*

6                   *(2) Section 420(e)(4) of such Code is amended to*  
7                   *read as follows:*

8                   *“(4) COORDINATION WITH SECTION 430.—In the*  
9                   *case of a qualified transfer, any assets so transferred*  
10                  *shall not, for purposes of this section, be treated as as-*  
11                  *sets in the plan.”.*

12                  *(e) EXCISE TAXES.—*

13                  *(1) IN GENERAL.—Subsections (a) and (b) of sec-*  
14                  *tion 4971 of such Code are amended to read as fol-*  
15                  *lows:*

16                  *“(a) INITIAL TAX.—If at any time during any taxable*  
17                  *year an employer maintains a plan to which section 412*  
18                  *applies, there is hereby imposed for the taxable year a tax*  
19                  *equal to—*

20                  *“(1) in the case of a defined benefit plan which*  
21                  *is not a multiemployer plan, 10 percent of the aggre-*  
22                  *gate unpaid minimum required contributions for all*  
23                  *plan years remaining unpaid as of the end of any*  
24                  *plan year ending with or within the taxable year,*  
25                  *and*

1           “(2) in the case of a multiemployer plan, 5 per-  
2           cent of the accumulated funding deficiency deter-  
3           mined under section 431 as of the end of any plan  
4           year ending with or within the taxable year.

5           “(b) *ADDITIONAL TAX.*—If—

6           “(1) a tax is imposed under subsection (a)(1) on  
7           any unpaid required minimum contribution and such  
8           amount remains unpaid as of the close of the taxable  
9           period, or

10           “(2) a tax is imposed under subsection (a)(2) on  
11           any accumulated funding deficiency and the accumu-  
12           lated funding deficiency is not corrected within the  
13           taxable period,  
14           there is hereby imposed a tax equal to 100 percent of the  
15           unpaid minimum required contribution or accumulated  
16           funding deficiency, whichever is applicable, to the extent not  
17           so paid or corrected.”.

18           (2) Section 4971(c) of such Code is amended—

19                   (A) by striking “the last two sentences of  
20                   section 412(a)” in paragraph (1) and inserting  
21                   “section 431”, and

22                   (B) by adding at the end the following new  
23                   paragraph:

24                   “(4) *UNPAID MINIMUM REQUIRED CONTRIBU-*  
25                   *TION.*—



1           “(A) *IN GENERAL.*—*The term ‘unpaid min-*  
2           *imum required contribution’ means, with respect*  
3           *to any plan year, any minimum required con-*  
4           *tribution under section 430 for the plan year*  
5           *which is not paid on or before the due date (as*  
6           *determined under section 430(j)(1)) for the plan*  
7           *year.*”

8           “(B) *ORDERING RULE.*—*Any payment to or*  
9           *under a plan for any plan year shall be allo-*  
10          *cated first to unpaid minimum required con-*  
11          *tributions for all preceding plan years in the*  
12          *order in which such contributions became due*  
13          *and then to the minimum required contribution*  
14          *under section 430 for the plan year.”.*

15          (3) *Section 4971(e)(1) of such Code is amended*  
16          *by striking “section 412(b)(3)(A)” and inserting “sec-*  
17          *tion 412(a)(2)”.*

18          (4) *Section 4971(f)(1) of such Code is*  
19          *amended—*

20                  (A) *by striking “section 412(m)(5)” and in-*  
21                  *serting “section 430(j)(4)”, and*

22                  (B) *by striking “section 412(m)” and in-*  
23                  *serting “section 430(j)(3)”.*

24          (5) *Section 4972(c)(7) of such Code is amended*  
25          *by striking “except to the extent that such contribu-*

1        *tions exceed the full-funding limitation (as defined in*  
2        *section 412(c)(7), determined without regard to sub-*  
3        *paragraph (A)(i)(I) thereof)” and inserting “except,*  
4        *in the case of a multiemployer plan, to the extent that*  
5        *such contributions exceed the full-funding limitation*  
6        *(as defined in section 431(c)(6))”.*

7        *(f) REPORTING REQUIREMENTS.—Section 6059(b) of*  
8        *such Code is amended—*

9                *(1) by striking “the accumulated funding defi-*  
10              *ciency (as defined in section 412(a))” in paragraph*  
11              *(2) and inserting “the minimum required contribu-*  
12              *tion determined under section 430, or the accumu-*  
13              *lated funding deficiency determined under section*  
14              *431,” and*

15              *(2) by striking paragraph (3)(B) and inserting:*  
16                      *“(B) the requirements for reasonable actu-*  
17                      *arial assumptions under section 430(h)(1) or*  
18                      *431(c)(3), whichever are applicable, have been*  
19                      *complied with.”.*

20        *(g) EFFECTIVE DATE.—The amendments made by this*  
21        *section shall apply to years beginning after December 31,*  
22        *2006.*



1           ***Subtitle C—Other Provisions***

2   ***SEC. 121. MODIFICATION OF TRANSITION RULE TO PEN-***  
3           ***SION FUNDING REQUIREMENTS.***

4           (a) *IN GENERAL.*—*In the case of a plan that—*

5                   (1) *was not required to pay a variable rate pre-*  
6                   *mium for the plan year beginning in 1996,*

7                   (2) *has not, in any plan year beginning after*  
8                   *1995, merged with another plan (other than a plan*  
9                   *sponsored by an employer that was in 1996 within*  
10                  *the controlled group of the plan sponsor); and*

11                  (3) *is sponsored by a company that is engaged*  
12                  *primarily in the interurban or interstate passenger*  
13                  *bus service,*

14   *the rules described in subsection (b) shall apply for any*  
15   *plan year beginning after December 31, 2006.*

16          (b) *MODIFIED RULES.*—*The rules described in this*  
17   *subsection are as follows:*

18                  (1) *For purposes of section 430(j)(3) of the Inter-*  
19                  *nal Revenue Code of 1986 and section 303(j)(3) of the*  
20                  *Employee Retirement Income Security Act of 1974,*  
21                  *the plan shall be treated as not having a funding*  
22                  *shortfall for any plan year.*

23                  (2) *For purposes of—*

24                          (A) *determining unfunded vested benefits*  
25                          *under section 4006(a)(3)(E)(iii) of such Act, and*

1                   (B) determining any present value or mak-  
2                   ing any computation under section 412 of such  
3                   Code or section 302 of such Act,  
4                   the mortality table shall be the mortality table used  
5                   by the plan.

6                   (3) Notwithstanding section 430(f)(4)(B) of such  
7                   Code and section 303(f)(4)(B) of such Act, for pur-  
8                   poses of section 430(c)(4)(A)(ii) of such Code and sec-  
9                   tion 303(c)(4)(A)(ii) of such Act, the value of plan as-  
10                  sets is deemed to be such amount, reduced by the  
11                  amount of the pre-funding balance if, pursuant to a  
12                  binding written agreement with the Pension Benefit  
13                  Guaranty Corporation entered into before January 1,  
14                  2007, the funding standard carryover balance is not  
15                  available to reduce the minimum required contribu-  
16                  tion for the plan year.

17                  (4) Section 430(c)(4)(B) of such Code and sec-  
18                  tion 303(c)(4)(B) of such Act (relating to phase-in of  
19                  funding target for determination of funding shortfall)  
20                  shall each be applied by substituting “2012” for  
21                  “2011” therein and by substituting for the table there-  
22                  in the following:

<i><b>In the case of a plan year beginning in calendar</b></i>		<i><b>The appli-</b></i>	
<i><b>year:</b></i>		<i><b>cable per-</b></i>	
		<i><b>centage</b></i>	
		<i><b>is:</b></i>	
2007	.....	90	percent
2008	.....	92	percent



***In the case of a plan year beginning in calendar year:******The applicable percentage is:***

2009 .....	94 percent
2010 .....	96 percent
2011 .....	98 percent.

1       (c) *DEFINITIONS.*—Any term used in this section  
2 which is also used in section 430 of such Code or section  
3 303 of such Act shall have the meaning provided such term  
4 in such section. If the same term has a different meaning  
5 in such Code and such Act, such term shall, for purposes  
6 of this section, have the meaning provided by such Code  
7 when applied with respect to such Code and the meaning  
8 provided by such Act when applied with respect to such Act.

9       (d) *SPECIAL RULE FOR 2006.*—

10           (1) *IN GENERAL.*—Section 769(c)(3) of the Re-  
11 tirement Protection Act of 1994, as added by section  
12 201 of the Pension Funding Equity Act of 2004, is  
13 amended by striking “and 2005” and inserting “,  
14 2005, and 2006”.

15           (2) *EFFECTIVE DATE.*—The amendment made by  
16 paragraph (1) shall apply to plan years beginning  
17 after December 31, 2005.

18       (e) *CONFORMING AMENDMENT.*—

19           (1) Section 769 of the Retirement Protection Act  
20 of 1994 is amended by striking subsection (c).

1           (2) *The amendment made by paragraph (1) shall*  
2           *take effect on December 31, 2006, and shall apply to*  
3           *plan years beginning after such date.*

4   **SEC. 122. TREATMENT OF NONQUALIFIED DEFERRED COM-**  
5                   **PENSATION PLANS WHEN EMPLOYER DE-**  
6                   **FINED BENEFIT PLAN IN AT-RISK STATUS.**

7           (a) *IN GENERAL.*—Subsection (b) of section 409A of  
8           *the Internal Revenue Code of 1986 (providing rules relating*  
9           *to funding) is amended by redesignating paragraphs (3)*  
10          *and (4) as paragraphs (4) and (5), respectively, and by*  
11          *inserting after paragraph (2) the following new paragraph:*

12                   “(3) *EMPLOYER’S DEFINED BENEFIT PLAN IN AT-*  
13           *RISK STATUS.*—If—

14                           “(A) *during any period in which a defined*  
15                   *benefit plan to which section 412 applies is in*  
16                   *an at-risk status (as defined in section*  
17                   *430(i)(3)), assets are set aside (directly or indi-*  
18                   *rectly) in a trust (or other arrangement deter-*  
19                   *mined by the Secretary), or transferred to such*  
20                   *a trust or other arrangement, for purposes of*  
21                   *paying deferred compensation under a non-*  
22                   *qualified deferred compensation plan of the em-*  
23                   *ployer maintaining the defined benefit plan, or*

24                           “(B) *a nonqualified deferred compensation*  
25                   *plan of the employer provides that assets will be-*

1           *come restricted to the provision of benefits under*  
2           *the plan in connection with such at-risk status*  
3           *(or other similar financial measure determined*  
4           *by the Secretary) of the defined benefit plan, or*  
5           *assets are so restricted,*  
6           *such assets shall for purposes of section 83 be treated*  
7           *as property transferred in connection with the per-*  
8           *formance of services whether or not such assets are*  
9           *available to satisfy claims of general creditors. Sub-*  
10          *paragraph (A) shall not apply with respect to any as-*  
11          *sets which are so set aside before the defined benefit*  
12          *plan is in at-risk status.”.*

13          **(b) CONFORMING AMENDMENTS.**—*Paragraphs (4) and*  
14          *(5) of section 409A(b) of such Code, as redesignated by sub-*  
15          *section (a) of this subsection, are each amended by striking*  
16          *“paragraph (1) or (2)” each place it appears and inserting*  
17          *“paragraph (1), (2), or (3)”.*

18          **(c) EFFECTIVE DATE.**—*The amendments made by*  
19          *this section shall apply to transfers or reservations of assets*  
20          *after December 31, 2005.*

21          **(d) SPECIAL RULE FOR 2006.**—*For purposes of deter-*  
22          *mining if a plan is in at-risk status (within the meaning*  
23          *of section 409A of such Code, as added by this section) for*  
24          *any plan year beginning in 2006, such section shall be ap-*  
25          *plied by substituting the plan’s modified funded current li-*

1 ability percentage for the plan's funding target attainment  
2 percentage. For purposes of the preceding sentence, the term  
3 "modified funded current liability percentage" means the  
4 funded current liability percentage (as defined in section  
5 412(l)(8) of such Code), reduced as described in subpara-  
6 graph (E) thereof.

7 **TITLE II—FUNDING RULES FOR**  
8 **MULTIEMPLOYER DEFINED**  
9 **BENEFIT PLANS**

10 **Subtitle A—Amendments to Em-**  
11 **ployee Retirement Income Secu-**  
12 **rity Act of 1974**

13 **SEC. 201. FUNDING RULES FOR MULTIEMPLOYER DEFINED**  
14 **BENEFIT PLANS.**

15 *[See section 201 of the bill as reported by the Com-*  
16 *mittee on Education and the Workforce.]*

17 **SEC. 202. ADDITIONAL FUNDING RULES FOR MULTIEM-**  
18 **PLOYER PLANS IN ENDANGERED OR CRIT-**  
19 **ICAL STATUS.**

20 *[See section 202 of the bill as reported by the Com-*  
21 *mittee on Education and the Workforce.]*

22 **SEC. 203. MEASURES TO FORESTALL INSOLVENCY OF MUL-**  
23 **TIEMPLOYER PLANS.**

24 *[See section 203 of the bill as reported by the Com-*  
25 *mittee on Education and the Workforce.]*



1 **SEC. 204. WITHDRAWAL LIABILITY REFORMS.**

2 *[See section 204 of the bill as reported by the Com-*  
3 *mittee on Education and the Workforce.]*

4 **SEC. 205. REMOVAL OF RESTRICTIONS WITH RESPECT TO**  
5 **PROCEDURES APPLICABLE TO DISPUTES IN-**  
6 **VOLVING WITHDRAWAL LIABILITY.**

7 *[See section 205 of the bill as reported by the Com-*  
8 *mittee on Education and the Workforce.]*

9 ***Subtitle B—Amendments to***  
10 ***Internal Revenue Code of 1986***

11 **SEC. 211. FUNDING RULES FOR MULTIEMPLOYER DEFINED**  
12 **BENEFIT PLANS.**

13 *(a) IN GENERAL.—Subpart A of part III of subchapter*  
14 *D of chapter 1 of the Internal Revenue Code of 1986 (added*  
15 *by section 112 of this Act) is amended by adding at the*  
16 *end the following new section:*

17 **“SEC. 431. MINIMUM FUNDING STANDARDS FOR MULTIEM-**  
18 **PLOYER PLANS.**

19 *“(a) IN GENERAL.—For purposes of section 412, the*  
20 *accumulated funding deficiency of a multiemployer plan for*  
21 *any plan year is—*

22 *“(1) except as provided in paragraph (2), the*  
23 *amount, determined as of the end of the plan year,*  
24 *equal to the excess (if any) of the total charges to the*  
25 *funding standard account of the plan for all plan*  
26 *years (beginning with the first plan year for which*

1        *section 412 applies to the plan) over the total credits*  
2        *to such account for such years, and*

3            *“(2) if the multiemployer plan is in reorganiza-*  
4        *tion for any plan year, the accumulated funding defi-*  
5        *ciency of the plan determined under section 418B.*

6        *“(b) FUNDING STANDARD ACCOUNT.—*

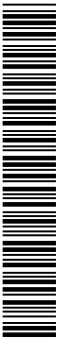
7            *“(1) ACCOUNT REQUIRED.—Each multiemployer*  
8        *plan to which section 412 applies shall establish and*  
9        *maintain a funding standard account. Such account*  
10       *shall be credited and charged solely as provided in*  
11       *this section.*

12           *“(2) CHARGES TO ACCOUNT.—For a plan year,*  
13        *the funding standard account shall be charged with*  
14        *the sum of—*

15           *“(A) the normal cost of the plan for the*  
16        *plan year,*

17           *“(B) the amounts necessary to amortize in*  
18        *equal annual installments (until fully amor-*  
19        *tized)—*

20           *“(i) in the case of a plan in existence*  
21        *on January 1, 1974, the unfunded past*  
22        *service liability under the plan on the first*  
23        *day of the first plan year to which section*  
24        *412 applies, over a period of 40 plan years,*



1                   “(ii) in the case of a plan which comes  
2                   into existence after January 1, 1974, the  
3                   unfunded past service liability under the  
4                   plan on the first day of the first plan year  
5                   to which section 412 applies, over a period  
6                   of 15 plan years,

7                   “(iii) separately, with respect to each  
8                   plan year, the net increase (if any) in un-  
9                   funded past service liability under the plan  
10                  arising from plan amendments adopted in  
11                  such year, over a period of 15 plan years,

12                  “(iv) separately, with respect to each  
13                  plan year, the net experience loss (if any)  
14                  under the plan, over a period of 15 plan  
15                  years, and

16                  “(v) separately, with respect to each  
17                  plan year, the net loss (if any) resulting  
18                  from changes in actuarial assumptions used  
19                  under the plan, over a period of 15 plan  
20                  years,

21                  “(C) the amount necessary to amortize each  
22                  waived funding deficiency (within the meaning  
23                  of section 412(c)(3)) for each prior plan year in  
24                  equal annual installments (until fully amor-  
25                  tized) over a period of 15 plan years,

1           “(D) the amount necessary to amortize in  
2           equal annual installments (until fully amor-  
3           tized) over a period of 5 plan years any amount  
4           credited to the funding standard account under  
5           section 412(b)(3)(D) (as in effect on the day be-  
6           fore the date of the enactment of the Pension  
7           Protection Act of 2005), and

8           “(E) the amount necessary to amortize in  
9           equal annual installments (until fully amor-  
10          tized) over a period of 20 years the contributions  
11          which would be required to be made under the  
12          plan but for the provisions of section  
13          412(c)(7)(A)(i)(I) (as in effect on the day before  
14          the date of the enactment of the Pension Protec-  
15          tion Act of 2005).

16          “(3) CREDITS TO ACCOUNT.—For a plan year,  
17          the funding standard account shall be credited with  
18          the sum of—

19                 “(A) the amount considered contributed by  
20                 the employer to or under the plan for the plan  
21                 year,

22                 “(B) the amount necessary to amortize in  
23                 equal annual installments (until fully amor-  
24                 tized)—

1                   “(i) separately, with respect to each  
2                   plan year, the net decrease (if any) in un-  
3                   funded past service liability under the plan  
4                   arising from plan amendments adopted in  
5                   such year, over a period of 15 plan years,

6                   “(ii) separately, with respect to each  
7                   plan year, the net experience gain (if any)  
8                   under the plan, over a period of 15 plan  
9                   years, and

10                  “(iii) separately, with respect to each  
11                  plan year, the net gain (if any) resulting  
12                  from changes in actuarial assumptions used  
13                  under the plan, over a period of 15 plan  
14                  years,

15                  “(C) the amount of the waived funding defi-  
16                  ciency (within the meaning of section 412(c)(3))  
17                  for the plan year, and

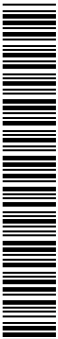
18                  “(D) in the case of a plan year for which  
19                  the accumulated funding deficiency is deter-  
20                  mined under the funding standard account if  
21                  such plan year follows a plan year for which  
22                  such deficiency was determined under the alter-  
23                  native minimum funding standard under section  
24                  412(g) (as in effect on the day before the date of  
25                  the enactment of the Pension Protection Act of

1           2005), the excess (if any) of any debit balance in  
2           the funding standard account (determined with-  
3           out regard to this subparagraph) over any debit  
4           balance in the alternative minimum funding  
5           standard account.

6           “(4) *SPECIAL RULE FOR AMOUNTS FIRST AMOR-*  
7           *TIZED TO PLAN YEARS BEFORE 2007.*—In the case of  
8           any amount amortized under section 412(b) (as in ef-  
9           fect on the day before the date of the enactment of the  
10          Pension Protection Act of 2005) over any period be-  
11          ginning with a plan year beginning before 2007, in  
12          lieu of the amortization described in paragraphs  
13          (2)(B) and (3)(B), such amount shall continue to be  
14          amortized under such section as so in effect.

15          “(5) *COMBINING AND OFFSETTING AMOUNTS TO*  
16          *BE AMORTIZED.*—Under regulations prescribed by the  
17          Secretary, amounts required to be amortized under  
18          paragraph (2) or paragraph (3), as the case may  
19          be—

20                 “(A) may be combined into one amount  
21                 under such paragraph to be amortized over a pe-  
22                 riod determined on the basis of the remaining  
23                 amortization period for all items entering into  
24                 such combined amount, and



1           “(B) may be offset against amounts re-  
2           quired to be amortized under the other such  
3           paragraph, with the resulting amount to be am-  
4           ortized over a period determined on the basis of  
5           the remaining amortization periods for all items  
6           entering into whichever of the two amounts being  
7           offset is the greater.

8           “(6) *INTEREST.*—Except as provided in sub-  
9           section (c)(9), the funding standard account (and  
10          items therein) shall be charged or credited (as deter-  
11          mined under regulations prescribed by the Secretary)  
12          with interest at the appropriate rate consistent with  
13          the rate or rates of interest used under the plan to de-  
14          termine costs.

15          “(7) *CERTAIN AMORTIZATION CHARGES AND*  
16          *CREDITS.*—In the case of a plan which, immediately  
17          before the date of the enactment of the Multiemployer  
18          Pension Plan Amendments Act of 1980, was a multi-  
19          employer plan (within the meaning of section 414(f)  
20          as in effect immediately before such date)—

21               “(A) any amount described in paragraph  
22               (2)(B)(ii), (2)(B)(iii), or (3)(B)(i) of this sub-  
23               section which arose in a plan year beginning be-  
24               fore such date shall be amortized in equal annual  
25               installments (until fully amortized) over 40 plan

1           *years, beginning with the plan year in which the*  
2           *amount arose,*

3                   “(B) any amount described in paragraph  
4           (2)(B)(iv) or (3)(B)(ii) of this subsection which  
5           arose in a plan year beginning before such date  
6           shall be amortized in equal annual installments  
7           (until fully amortized) over 20 plan years, begin-  
8           ning with the plan year in which the amount  
9           arose,

10                   “(C) any change in past service liability  
11           which arises during the period of 3 plan years  
12           beginning on or after such date, and results from  
13           a plan amendment adopted before such date,  
14           shall be amortized in equal annual installments  
15           (until fully amortized) over 40 plan years, begin-  
16           ning with the plan year in which the change  
17           arises, and

18                   “(D) any change in past service liability  
19           which arises during the period of 2 plan years  
20           beginning on or after such date, and results from  
21           the changing of a group of participants from one  
22           benefit level to another benefit level under a  
23           schedule of plan benefits which—

24                   “(i) was adopted before such date, and



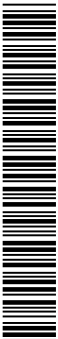


1                   “(ii) was effective for any plan partici-  
2                   pant before the beginning of the first plan  
3                   year beginning on or after such date,  
4                   shall be amortized in equal annual installments  
5                   (until fully amortized) over 40 plan years, begin-  
6                   ning with the plan year in which the change  
7                   arises.

8                   “(8) *SPECIAL RULES RELATING TO CHARGES*  
9                   *AND CREDITS TO FUNDING STANDARD ACCOUNT.—For*  
10                  *purposes of this section—*

11                  “(A) *WITHDRAWAL LIABILITY.—Any*  
12                  *amount received by a multiemployer plan in*  
13                  *payment of all or part of an employer’s with-*  
14                  *drawal liability under part 1 of subtitle E of*  
15                  *title IV of the Employee Retirement Income Se-*  
16                  *curity Act of 1974 shall be considered an amount*  
17                  *contributed by the employer to or under the*  
18                  *plan. The Secretary may prescribe by regulation*  
19                  *additional charges and credits to a multiem-*  
20                  *ployer plan’s funding standard account to the*  
21                  *extent necessary to prevent withdrawal liability*  
22                  *payments from being unduly reflected as advance*  
23                  *funding for plan liabilities.*

24                  “(B) *ADJUSTMENTS WHEN A MULTIEM-*  
25                  *PLOYER PLAN LEAVES REORGANIZATION.—If a*



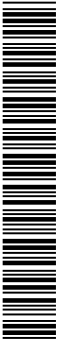
1           *multiemployer plan is not in reorganization in*  
2           *the plan year but was in reorganization in the*  
3           *immediately preceding plan year, any balance*  
4           *in the funding standard account at the close of*  
5           *such immediately preceding plan year—*

6                     *“(i) shall be eliminated by an offset-*  
7                     *ting credit or charge (as the case may be),*  
8                     *but*

9                     *“(ii) shall be taken into account in*  
10            *subsequent plan years by being amortized*  
11            *in equal annual installments (until fully*  
12            *amortized) over 30 plan years.*

13           *The preceding sentence shall not apply to the ex-*  
14           *tent of any accumulated funding deficiency*  
15           *under section 418B(a) as of the end of the last*  
16           *plan year that the plan was in reorganization.*

17                     *“(C) PLAN PAYMENTS TO SUPPLEMENTAL*  
18                     *PROGRAM OR WITHDRAWAL LIABILITY PAYMENT*  
19                     *FUND.—Any amount paid by a plan during a*  
20                     *plan year to the Pension Benefit Guaranty Cor-*  
21                     *poration pursuant to section 4222 of the Em-*  
22                     *ployee Retirement Income Security Act of 1974*  
23                     *or to a fund exempt under section 501(c)(22)*  
24                     *pursuant to section 4223 of such Act shall reduce*



1           *the amount of contributions considered received*  
2           *by the plan for the plan year.*

3           “(D) *INTERIM WITHDRAWAL LIABILITY PAY-*  
4           *MENTS.—Any amount paid by an employer*  
5           *pending a final determination of the employer’s*  
6           *withdrawal liability under part 1 of subtitle E*  
7           *of title IV of such Act and subsequently refunded*  
8           *to the employer by the plan shall be charged to*  
9           *the funding standard account in accordance with*  
10          *regulations prescribed by the Secretary.*

11          “(E) *ELECTION FOR DEFERRAL OF CHARGE*  
12          *FOR PORTION OF NET EXPERIENCE LOSS.—If an*  
13          *election is in effect under section 412(b)(7)(F)*  
14          *(as in effect on the day before the date of the en-*  
15          *actment of the Pension Protection Act of 2005)*  
16          *for any plan year, the funding standard account*  
17          *shall be charged in the plan year to which the*  
18          *portion of the net experience loss deferred by*  
19          *such election was deferred with the amount so*  
20          *deferred (and paragraph (2)(B)(iv) shall not*  
21          *apply to the amount so charged).*

22          “(F) *FINANCIAL ASSISTANCE.—Any amount*  
23          *of any financial assistance from the Pension*  
24          *Benefit Guaranty Corporation to any plan, and*  
25          *any repayment of such amount, shall be taken*

1           *into account under this section and section 412*  
2           *in such manner as is determined by the Sec-*  
3           *retary.*

4           “(G) *SHORT-TERM BENEFITS.*—*To the ex-*  
5           *tent that any plan amendment increases the un-*  
6           *funded past service liability under the plan by*  
7           *reason of an increase in benefits which are pay-*  
8           *able under the plan during a period that does*  
9           *not exceed 14 years, paragraph (2)(B)(iii) shall*  
10          *be applied separately with respect to such in-*  
11          *crease in unfunded past service liability by sub-*  
12          *stituting the number of years of the period dur-*  
13          *ing which such benefits are payable for ‘15’.*

14          “(c) *ADDITIONAL RULES.*—

15               “(1) *DETERMINATIONS TO BE MADE UNDER*  
16               *FUNDING METHOD.*—*For purposes of this section, nor-*  
17               *mal costs, accrued liability, past service liabilities,*  
18               *and experience gains and losses shall be determined*  
19               *under the funding method used to determine costs*  
20               *under the plan.*

21               “(2) *VALUATION OF ASSETS.*—

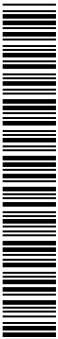
22                       “(A) *IN GENERAL.*—*For purposes of this*  
23                       *section, the value of the plan’s assets shall be de-*  
24                       *termined on the basis of any reasonable actu-*  
25                       *arial method of valuation which takes into ac-*

1           *count fair market value and which is permitted*  
2           *under regulations prescribed by the Secretary.*

3           “(B)   *ELECTION   WITH   RESPECT   TO*  
4           *BONDS.—The value of a bond or other evidence*  
5           *of indebtedness which is not in default as to*  
6           *principal or interest may, at the election of the*  
7           *plan administrator, be determined on an amor-*  
8           *tized basis running from initial cost at purchase*  
9           *to par value at maturity or earliest call date.*  
10          *Any election under this subparagraph shall be*  
11          *made at such time and in such manner as the*  
12          *Secretary shall by regulations provide, shall*  
13          *apply to all such evidences of indebtedness, and*  
14          *may be revoked only with the consent of the Sec-*  
15          *retary.*

16          “(3) *ACTUARIAL ASSUMPTIONS MUST BE REA-*  
17          *SONABLE.—For purposes of this section, all costs, li-*  
18          *abilities, rates of interest, and other factors under the*  
19          *plan shall be determined on the basis of actuarial as-*  
20          *sumptions and methods—*

21                 *“(A) each of which is reasonable (taking*  
22                 *into account the experience of the plan and rea-*  
23                 *sonable expectations), and*



1           “(B) which, in combination, offer the actu-  
2           ary’s best estimate of anticipated experience  
3           under the plan.

4           “(4) TREATMENT OF CERTAIN CHANGES AS EX-  
5           PERIENCE GAIN OR LOSS.—For purposes of this sec-  
6           tion, if—

7           “(A) a change in benefits under the Social  
8           Security Act or in other retirement benefits cre-  
9           ated under Federal or State law, or

10          “(B) a change in the definition of the term  
11          ‘wages’ under section 3121, or a change in the  
12          amount of such wages taken into account under  
13          regulations prescribed for purposes of section  
14          401(a)(5),  
15          results in an increase or decrease in accrued liability  
16          under a plan, such increase or decrease shall be treat-  
17          ed as an experience loss or gain.

18          “(5) FULL FUNDING.—If, as of the close of a  
19          plan year, a plan would (without regard to this para-  
20          graph) have an accumulated funding deficiency in ex-  
21          cess of the full funding limitation—

22          “(A) the funding standard account shall be  
23          credited with the amount of such excess, and

24          “(B) all amounts described in subpara-  
25          graphs (B), (C), and (D) of subsection (b)(2) and

1           *subparagraph (B) of subsection (b)(3) which are*  
2           *required to be amortized shall be considered fully*  
3           *amortized for purposes of such subparagraphs.*

4           “(6) *FULL-FUNDING LIMITATION.*—

5                 “(A) *IN GENERAL.*—*For purposes of para-*  
6                 *graph (5), the term ‘full-funding limitation’*  
7                 *means the excess (if any) of—*

8                         “(i) *the accrued liability (including*  
9                         *normal cost) under the plan (determined*  
10                         *under the entry age normal funding method*  
11                         *if such accrued liability cannot be directly*  
12                         *calculated under the funding method used*  
13                         *for the plan), over*

14                         “(ii) *the lesser of—*

15                                 “(I) *the fair market value of the*  
16                                 *plan’s assets, or*

17                                 “(II) *the value of such assets de-*  
18                                 *termined under paragraph (2).*

19           “(B) *MINIMUM AMOUNT.*—

20                 “(i) *IN GENERAL.*—*In no event shall*  
21                 *the full-funding limitation determined*  
22                 *under subparagraph (A) be less than the ex-*  
23                 *cess (if any) of—*

24                         “(I) *90 percent of the current li-*  
25                         *ability of the plan (including the ex-*

1                    *pected increase in current liability due*  
2                    *to benefits accruing during the plan*  
3                    *year), over*

4                    *“(II) the value of the plan’s assets*  
5                    *determined under paragraph (2).*

6                    *“(ii) ASSETS.—For purposes of clause*  
7                    *(i), assets shall not be reduced by any credit*  
8                    *balance in the funding standard account.*

9                    *“(C) FULL FUNDING LIMITATION.—For pur-*  
10                   *poses of this paragraph, unless otherwise pro-*  
11                   *vided by the plan, the accrued liability under a*  
12                   *multiemployer plan shall not include benefits*  
13                   *which are not nonforfeitable under the plan after*  
14                   *the termination of the plan (taking into consid-*  
15                   *eration section 411(d)(3)).*

16                   *“(D) CURRENT LIABILITY.—For purposes of*  
17                   *this paragraph—*

18                   *“(i) IN GENERAL.—The term ‘current*  
19                   *liability’ means all liabilities to employees*  
20                   *and their beneficiaries under the plan.*

21                   *“(ii) TREATMENT OF UNPREDICTABLE*  
22                   *CONTINGENT EVENT BENEFITS.—For pur-*  
23                   *poses of clause (i), any benefit contingent on*  
24                   *an event other than—*





1                   “(I) age, service, compensation,  
2                   death, or disability, or

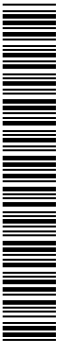
3                   “(II) an event which is reasonably  
4                   and reliably predictable (as determined  
5                   by the Secretary),

6                   shall not be taken into account until the  
7                   event on which the benefit is contingent oc-  
8                   curs.

9                   “(iii) *INTEREST RATE USED.*—The  
10                  rate of interest used to determine current li-  
11                  ability under this paragraph shall be the  
12                  rate of interest determined under subpara-  
13                  graph (E).

14                  “(iv) *MORTALITY TABLES.*—

15                  “(I) *COMMISSIONERS’ STANDARD*  
16                  *TABLE.*—In the case of plan years be-  
17                  ginning before the first plan year to  
18                  which the first tables prescribed under  
19                  subclause (II) apply, the mortality  
20                  table used in determining current li-  
21                  ability under this paragraph shall be  
22                  the table prescribed by the Secretary  
23                  which is based on the prevailing com-  
24                  missioners’ standard table (described  
25                  in section 807(d)(5)(A)) used to deter-

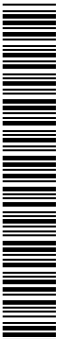


1 *mine reserves for group annuity con-*  
2 *tracts issued on January 1, 1993.*

3 “(II) SECRETARIAL AUTHOR-  
4 *ITY.—The Secretary may by regulation*  
5 *prescribe for plan years beginning*  
6 *after December 31, 1999, mortality ta-*  
7 *bles to be used in determining current*  
8 *liability under this subsection. Such*  
9 *tables shall be based upon the actual*  
10 *experience of pension plans and pro-*  
11 *jected trends in such experience. In*  
12 *prescribing such tables, the Secretary*  
13 *shall take into account results of avail-*  
14 *able independent studies of mortality*  
15 *of individuals covered by pension*  
16 *plans.*

17 “(v) SEPARATE MORTALITY TABLES  
18 *FOR THE DISABLED.—Notwithstanding*  
19 *clause (iv)—*

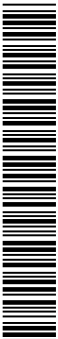
20 “(I) IN GENERAL.—*In the case of*  
21 *plan years beginning after December*  
22 *31, 1995, the Secretary shall establish*  
23 *mortality tables which may be used (in*  
24 *lieu of the tables under clause (iv)) to*  
25 *determine current liability under this*



1 subsection for individuals who are en-  
2 titled to benefits under the plan on ac-  
3 count of disability. The Secretary shall  
4 establish separate tables for individuals  
5 whose disabilities occur in plan years  
6 beginning before January 1, 1995, and  
7 for individuals whose disabilities occur  
8 in plan years beginning on or after  
9 such date.

10 “(II) *SPECIAL RULE FOR DISABIL-*  
11 *ITIES OCCURRING AFTER 1994.*—In the  
12 case of disabilities occurring in plan  
13 years beginning after December 31,  
14 1994, the tables under subclause (I)  
15 shall apply only with respect to indi-  
16 viduals described in such subclause  
17 who are disabled within the meaning  
18 of title II of the Social Security Act  
19 and the regulations thereunder.

20 “(vi) *PERIODIC REVIEW.*—The Sec-  
21 retary shall periodically (at least every 5  
22 years) review any tables in effect under this  
23 subparagraph and shall, to the extent the  
24 Secretary determines necessary, by regula-  
25 tion update the tables to reflect the actual



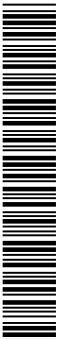
1                   *experience of pension plans and projected*  
2                   *trends in such experience.*

3                   “(E) *REQUIRED CHANGE OF INTEREST*  
4                   *RATE.—For purposes of determining a plan’s*  
5                   *current liability for purposes of this*  
6                   *paragraph—*

7                   “(i) *IN GENERAL.—If any rate of in-*  
8                   *terest used under the plan under subsection*  
9                   *(b)(6) to determine cost is not within the*  
10                  *permissible range, the plan shall establish a*  
11                  *new rate of interest within the permissible*  
12                  *range.*

13                  “(ii) *PERMISSIBLE RANGE.—For pur-*  
14                  *poses of this subparagraph—*

15                  “(I) *IN GENERAL.—Except as pro-*  
16                  *vided in subclause (II), the term ‘per-*  
17                  *missible range’ means a rate of interest*  
18                  *which is not more than 5 percent*  
19                  *above, and not more than 10 percent*  
20                  *below, the weighted average of the rates*  
21                  *of interest on 30-year Treasury securi-*  
22                  *ties during the 4-year period ending on*  
23                  *the last day before the beginning of the*  
24                  *plan year.*



1                   “(II) *SECRETARIAL AUTHORITY.*—*If the Secretary finds that the*  
2                   *lowest rate of interest permissible*  
3                   *under subclause (I) is unreasonably*  
4                   *high, the Secretary may prescribe a*  
5                   *lower rate of interest, except that such*  
6                   *rate may not be less than 80 percent of*  
7                   *the average rate determined under such*  
8                   *subclause.*

9                   “(iii) *ASSUMPTIONS.*—*Notwith-*  
10                  *standing paragraph (3)(A), the interest rate*  
11                  *used under the plan shall be—*

12                   “(I) *determined without taking*  
13                   *into account the experience of the plan*  
14                   *and reasonable expectations, but*

15                   “(II) *consistent with the assump-*  
16                   *tions which reflect the purchase rates*  
17                   *which would be used by insurance com-*  
18                   *panies to satisfy the liabilities under*  
19                   *the plan.*

20                   “(7) *ANNUAL VALUATION.*—

21                   “(A) *IN GENERAL.*—*For purposes of this*  
22                   *section, a determination of experience gains and*  
23                   *losses and a valuation of the plan’s liability*  
24                   *shall be made not less frequently than once every*  
25

1           *year, except that such determination shall be*  
2           *made more frequently to the extent required in*  
3           *particular cases under regulations prescribed by*  
4           *the Secretary.*

5           “(B) *VALUATION DATE.*—

6           “(i) *CURRENT YEAR.*—*Except as pro-*  
7           *vided in clause (ii), the valuation referred*  
8           *to in subparagraph (A) shall be made as of*  
9           *a date within the plan year to which the*  
10           *valuation refers or within one month prior*  
11           *to the beginning of such year.*

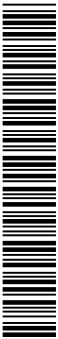
12           “(ii) *USE OF PRIOR YEAR VALU-*  
13           *ATION.*—*The valuation referred to in sub-*  
14           *paragraph (A) may be made as of a date*  
15           *within the plan year prior to the year to*  
16           *which the valuation refers if, as of such*  
17           *date, the value of the assets of the plan are*  
18           *not less than 100 percent of the plan’s cur-*  
19           *rent liability (as defined in paragraph*  
20           *(6)(D) without regard to clause (iv) there-*  
21           *of).*

22           “(iii) *ADJUSTMENTS.*—*Information*  
23           *under clause (ii) shall, in accordance with*  
24           *regulations, be actuarially adjusted to re-*  
25           *fect significant differences in participants.*

1                   “(iv) *LIMITATION.*—A change in fund-  
2                   ing method to use a prior year valuation,  
3                   as provided in clause (ii), may not be made  
4                   unless as of the valuation date within the  
5                   prior plan year, the value of the assets of  
6                   the plan are not less than 125 percent of the  
7                   plan’s current liability (as defined in para-  
8                   graph (6)(D) without regard to clause (iv)  
9                   thereof).

10                  “(8) *TIME WHEN CERTAIN CONTRIBUTIONS*  
11                  *DEEMED MADE.*—For purposes of this section, any  
12                  contributions for a plan year made by an employer  
13                  after the last day of such plan year, but not later  
14                  than two and one-half months after such day, shall be  
15                  deemed to have been made on such last day. For pur-  
16                  poses of this subparagraph, such two and one-half  
17                  month period may be extended for not more than six  
18                  months under regulations prescribed by the Secretary.

19                  “(9) *INTEREST RULE FOR WAIVERS AND EXTEN-*  
20                  *SIONS.*—The interest rate applicable for any plan  
21                  year for purposes of computing the amortization  
22                  charge described in subsection (b)(2)(C) and in con-  
23                  nection with an extension granted under subsection  
24                  (d) shall be the greater of—



1           “(A) 150 percent of the Federal mid-term  
2           rate (as in effect under section 1274 for the 1st  
3           month of such plan year), or

4           “(B) the rate of interest used under the plan  
5           for determining costs.

6           “(d) *EXTENSION OF AMORTIZATION PERIODS FOR*  
7           *MULTIEMPLOYER PLANS.*—In the case of a multiemployer  
8           plan—

9           “(1) *EXTENSION.*—The period of years required  
10          to amortize any unfunded liability (described in any  
11          clause of subsection (b)(2)(B)) of any multiemployer  
12          plan shall be extended by the Secretary for a period  
13          of time (not in excess of 5 years) if the Secretary de-  
14          termines that—

15               “(A) absent the extension, the plan would  
16               have an accumulated funding deficiency in any  
17               of the next 10 plan years,

18               “(B) the plan sponsor has adopted a plan  
19               to improve the plan’s funding status, and

20               “(C) taking into account the extension, the  
21               plan is projected to have sufficient assets to time-  
22               ly pay its expected benefit liabilities and other  
23               anticipated expenditures

24           “(2) *ADDITIONAL EXTENSION.*—The period of  
25          years required to amortize any unfunded liability



1       *(described in any clause of subsection (b)(2)(B)) of*  
2       *any multiemployer plan may be extended (in addi-*  
3       *tion to any extension under paragraph (1)) by the*  
4       *Secretary for a period of time (not in excess of 5*  
5       *years) if the Secretary determines that such extension*  
6       *would carry out the purposes of the Employee Retire-*  
7       *ment Income Security Act of 1974 and would provide*  
8       *adequate protection for participants under the plan*  
9       *and their beneficiaries and if the Secretary deter-*  
10      *mines that the failure to permit such extension*  
11      *would—*

12               *“(A) result in—*

13                       *“(i) a substantial risk to the voluntary*  
14                       *continuation of the plan, or*

15                       *“(ii) a substantial curtailment of pen-*  
16                       *sion benefit levels or employee compensa-*  
17                       *tion, and*

18               *“(B) be adverse to the interests of plan par-*  
19               *ticipants in the aggregate.*

20               *“(3) ADVANCE NOTICE.—*

21                       *“(A) IN GENERAL.—The Secretary shall, be-*  
22                       *fore granting an extension under this section, re-*  
23                       *quire each applicant to provide evidence satisfac-*  
24                       *tory to the Secretary that the applicant has pro-*  
25                       *vided notice of the filing of the application for*

1        *such extension to each affected party (as defined*  
2        *in section 4001(a)(21) of the Employee Retirement*  
3        *Income Security Act of 1974) with respect*  
4        *to the affected plan. Such notice shall include a*  
5        *description of the extent to which the plan is*  
6        *funded for benefits which are guaranteed under*  
7        *title IV of such Act and for benefit liabilities.*

8                *“(B) CONSIDERATION OF RELEVANT INFOR-*  
9        *MATION.—The Secretary shall consider any rel-*  
10        *evant information provided by a person to whom*  
11        *notice was given under paragraph (1).”.*

12        *(b) CONFORMING AMENDMENTS.—*

13                *(1) Section 418(b)(2) of such Code is amended—*

14                        *(A) by striking “section 412(b)(2)” in sub-*  
15        *paragraph (A) and inserting “section*  
16        *431(b)(2)”, and*

17                        *(B) by striking “section 412(b)(3)(B)” in*  
18        *subparagraph (B) and inserting “section*  
19        *431(b)(3)(B)”.*

20                *(2) Section 418B of such Code is amended—*

21                        *(A) by striking “section 412(b)(2)(A) or*  
22        *(B)” in subsection (d)(1)(B) and inserting “sec-*  
23        *tion 431(b)(2)(A) or (B)”.*

1           (B) by striking “section 412(c)(8)” in sub-  
2           section (e) and inserting “section 412(d)(2)”,  
3           and

4           (C) by striking “section 412(c)(3)” in sub-  
5           section (g) and inserting “section 431(c)(3)”.

6           (3) Section 418D(a)(2) of such Code is  
7           amended—

8           (A) by striking “section 412(c)(8)” and in-  
9           serting “section 412(d)(2)”, and

10          (B) by striking “section 412(c)(10)” and in-  
11          serting “section 431(c)(8)”.

12          (c) *CLERICAL AMENDMENT.*—The table of sections for  
13          subpart A of part III of subchapter D of chapter 1 of such  
14          Code is amended by adding after the item relating to section  
15          430 the following new item:

          “Sec. 431. Minimum funding standards for multiemployer plans.”.

16          (d) *EFFECTIVE DATE.*—The amendments made by this  
17          section shall apply to plan years beginning after December  
18          31, 2006.

19          **SEC. 212. ADDITIONAL FUNDING RULES FOR MULTIEM-**  
20                               **PLOYER PLANS IN ENDANGERED OR CRIT-**  
21                               **ICAL STATUS.**

22          (a) *IN GENERAL.*—Subpart A of part III of subchapter  
23          D of chapter 1 of the Internal Revenue Code of 1986 is  
24          amended by inserting after section 431 the following new  
25          section:

1 **“SEC. 432. ADDITIONAL FUNDING RULES FOR MULTIEM-**  
2 **PLOYER PLANS IN ENDANGERED STATUS OR**  
3 **CRITICAL STATUS.**

4 *“(a) ANNUAL CERTIFICATION BY PLAN ACTUARY.—*

5 *“(1) IN GENERAL.—During the 90-day period*  
6 *beginning on first day of each plan year of a multi-*  
7 *employer plan, the plan actuary shall certify to the*  
8 *Secretary whether or not the plan is in endangered*  
9 *status for such plan year and whether or not the plan*  
10 *is in critical status for such plan year.*

11 *“(2) ACTUARIAL PROJECTIONS OF ASSETS AND*  
12 *LIABILITIES.—*

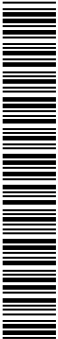
13 *“(A) IN GENERAL.—In making the deter-*  
14 *minations under paragraph (1), the plan actu-*  
15 *ary shall make projections under subsections*  
16 *(b)(2) and (c)(2) for the current and succeeding*  
17 *plan years, using reasonable actuarial assump-*  
18 *tions and methods, of the current value of the as-*  
19 *sets of the plan and the present value of all li-*  
20 *abilities to participants and beneficiaries under*  
21 *the plan for the current plan year as of the be-*  
22 *ginning of such year, as based on the actuarial*  
23 *statement prepared for the preceding plan year*  
24 *under section 103(d) of the Employee Retirement*  
25 *Income Security Act of 1974.*

1                   “(B) *DETERMINATIONS OF FUTURE CON-*  
2                   *TRIBUTIONS.—Any such actuarial projection of*  
3                   *plan assets shall assume—*

4                   “(i) *reasonably anticipated employer*  
5                   *and employee contributions for the current*  
6                   *and succeeding plan years, assuming that*  
7                   *the terms of the one or more collective bar-*  
8                   *gaining agreements pursuant to which the*  
9                   *plan is maintained for the current plan*  
10                  *year continue in effect for succeeding plan*  
11                  *years, or*

12                  “(ii) *that employer and employee con-*  
13                  *tributions for the most recent plan year will*  
14                  *continue indefinitely, but only if the plan*  
15                  *actuary determines there have been no sig-*  
16                  *nificant demographic changes that would*  
17                  *make continued application of such terms*  
18                  *unreasonable.*

19                  “(3) *PRESUMED STATUS IN ABSENCE OF TIMELY*  
20                  *ACTUARIAL CERTIFICATION.—If certification under*  
21                  *this subsection is not made before the end of the 90-*  
22                  *day period specified in paragraph (1), the plan shall*  
23                  *be presumed to be in critical status for such plan year*  
24                  *until such time as the plan actuary makes a contrary*  
25                  *certification.*



1           “(4) *NOTICE.*—*In any case in which a multiem-*  
2           *ployer plan is certified to be in endangered status*  
3           *under paragraph (1) or enters into critical status, the*  
4           *plan sponsor shall, not later than 30 days after the*  
5           *date of the certification or entry, provide notification*  
6           *of the endangered or critical status to the participants*  
7           *and beneficiaries, the bargaining parties, the Pension*  
8           *Benefit Guaranty Corporation, the Secretary of the*  
9           *Treasury, and the Secretary of Labor.*

10          “(b) *FUNDING RULES FOR MULTIEMPLOYER PLANS IN*  
11          *ENDANGERED STATUS.*—

12               “(1) *IN GENERAL.*—*In any case in which a mul-*  
13               *tiemployer plan is in endangered status for a plan*  
14               *year and no funding improvement plan under this*  
15               *subsection with respect to such multiemployer plan is*  
16               *in effect for the plan year, the plan sponsor shall, in*  
17               *accordance with this subsection, amend the multiem-*  
18               *ployer plan to include a funding improvement plan*  
19               *upon approval thereof by the bargaining parties*  
20               *under this subsection. The amendment shall be adopt-*  
21               *ed not later than 240 days after the date on which*  
22               *the plan is certified to be in endangered status under*  
23               *subsection (a)(1).*

24               “(2) *ENDANGERED STATUS.*—*A multiemployer*  
25               *plan is in endangered status for a plan year if, as*

1       *determined by the plan actuary under subsection*  
2       *(a)—*

3               *“(A) the plan’s funded percentage for such*  
4       *plan year is less than 80 percent, or*

5               *“(B) the plan has an accumulated funding*  
6       *deficiency for such plan year under section 431*  
7       *or is projected to have such an accumulated*  
8       *funding deficiency for any of the 6 succeeding*  
9       *plan years, taking into account any extension of*  
10       *amortization periods under section 431(d).*

11       *“(3) FUNDING IMPROVEMENT PLAN.—*

12               *“(A) BENCHMARKS.—A funding improve-*  
13       *ment plan shall consist of amendments to the*  
14       *plan formulated to provide, under reasonable ac-*  
15       *tuarial assumptions, for the attainment, during*  
16       *the funding improvement period under the fund-*  
17       *ing improvement plan, of the following bench-*  
18       *marks:*

19               *“(i) INCREASE IN FUNDED PERCENT-*  
20       *AGE.—An increase in the plan’s funded per-*  
21       *centage such that—*

22               *“(I) the difference between 100*  
23       *percent and the plan’s funded percent-*  
24       *age for the last year of the funding im-*  
25       *provement period, is not more than*

1                   “(II)  $\frac{2}{3}$  of the difference between  
2                   100 percent and the plan’s funded per-  
3                   centage for the first year of the funding  
4                   improvement period.

5                   “(ii) AVOIDANCE OF ACCUMULATED  
6                   FUNDING DEFICIENCIES.—No accumulated  
7                   funding deficiency for any plan year during  
8                   the funding improvement period (taking  
9                   into account any extension of amortization  
10                  periods under section 431(d)).

11                  “(B) FUNDING IMPROVEMENT PERIOD.—The  
12                  funding improvement period for any funding  
13                  improvement plan adopted pursuant to this sub-  
14                  section is the 10-year period beginning on the  
15                  earlier of—

16                       “(i) the second anniversary of the date  
17                       of the adoption of the funding improvement  
18                       plan, or

19                       “(ii) the first day of the first plan year  
20                       of the multiemployer plan following the  
21                       plan year in which occurs the first date  
22                       after the day of the certification as of which  
23                       collective bargaining agreements covering on  
24                       the day of such certification at least 75 per-





1                   *cent of active participants in such multiem-*  
2                   *ployer plan have expired.*

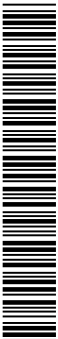
3                   “(C) *SPECIAL RULES FOR CERTAIN SERI-*  
4                   *OUSLY UNDERFUNDED PLANS.—*

5                   “(i) *In the case of a plan in which the*  
6                   *funded percentage of a plan for the plan*  
7                   *year is 70 percent or less, subparagraph*  
8                   *(A)(i)(II) shall be applied by substituting*  
9                   *‘ $\frac{4}{5}$ ’ for ‘ $\frac{2}{3}$ ’ and subparagraph (B) shall be*  
10                  *applied by substituting ‘the 15-year period’*  
11                  *for ‘the 10-year period’.*

12                  “(ii) *In the case of a plan in which the*  
13                  *funded percentage of a plan for the plan*  
14                  *year is more than 70 percent but less than*  
15                  *80 percent, and—*

16                  “(I) *the plan actuary certifies*  
17                  *within 30 days after certification*  
18                  *under subsection (a)(1) that the plan is*  
19                  *not able to attain the increase de-*  
20                  *scribed in subparagraph (A)(i) over the*  
21                  *period described in subparagraph (B),*  
22                  *and*

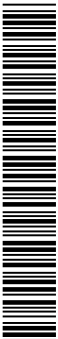
23                  “(II) *the plan year is prior to the*  
24                  *day described in subparagraph (B)(ii),*



1           subparagraph (A)(i)(II) shall be applied by  
2           substituting ‘ $\frac{4}{5}$ ’ for ‘ $\frac{2}{3}$ ’ and subparagraph  
3           (B) shall be applied by substituting ‘the 15-  
4           year period’ for ‘the 10-year period’.

5           “(iii) For any plan year following the  
6           year described in clause (ii)(II), subpara-  
7           graph (A)(i)(II) and subparagraph (B)  
8           shall apply, except that for each plan year  
9           ending after such date for which the plan  
10          actuary certifies (at the time of the annual  
11          certification under subsection (a)(1) for  
12          such plan year) that the plan is not able to  
13          attain the increase described in subpara-  
14          graph (A)(i) over the period described in  
15          subparagraph (B), subparagraph (B) shall  
16          be applied by substituting ‘the 15-year pe-  
17          riod’ for ‘the 10-year period’.

18          “(D) *REPORTING.*—A summary of any  
19          funding improvement plan or modification  
20          thereto adopted during any plan year, together  
21          with annual updates regarding the funding ratio  
22          of the plan, shall be included in the annual re-  
23          port for such plan year under section 104(a) of  
24          the Employee Retirement Income Security Act of



1           *1974 and in the summary annual report de-*  
2           *scribed in section 104(b)(3) of such Act.*

3           “(4) *DEVELOPMENT OF FUNDING IMPROVEMENT*  
4           *PLAN.*—

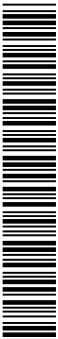
5                   “(A) *ACTIONS BY PLAN SPONSOR PENDING*  
6           *APPROVAL.*—*Pending the approval of a funding*  
7           *improvement plan under this paragraph, the*  
8           *plan sponsor shall take all reasonable actions,*  
9           *consistent with the terms of the plan and appli-*  
10          *cable law, necessary to ensure—*

11                   “(i) *an increase in the plan’s funded*  
12                   *percentage, and*

13                   “(ii) *postponement of an accumulated*  
14                   *funding deficiency for at least 1 additional*  
15                   *plan year.*

16           *Such actions include applications for extensions*  
17           *of amortization periods under section 431(d), use*  
18           *of the shortfall funding method in making fund-*  
19           *ing standard account computations, amendments*  
20           *to the plan’s benefit structure, reductions in fu-*  
21           *ture benefit accruals, and other reasonable ac-*  
22           *tions consistent with the terms of the plan and*  
23           *applicable law.*

24                   “(B) *RECOMMENDATIONS BY PLAN SPON-*  
25           *SOR.*—



1           “(i) *IN GENERAL.*—During the period  
2           of 90 days following the date on which a  
3           multiemployer plan is certified to be in en-  
4           dangered status, the plan sponsor shall de-  
5           velop and provide to the bargaining parties  
6           alternative proposals for revised benefit  
7           structures, contribution structures, or both,  
8           which, if adopted as amendments to the  
9           plan, may be reasonably expected to meet  
10          the benchmarks described in paragraph  
11          (3)(A). Such proposals shall include—

12                   “(I) at least one proposal for re-  
13                   ductions in the amount of future ben-  
14                   efit accruals necessary to achieve the  
15                   benchmarks, assuming no amendments  
16                   increasing contributions under the  
17                   plan (other than amendments increas-  
18                   ing contributions necessary to achieve  
19                   the benchmarks after amendments have  
20                   reduced future benefit accruals to the  
21                   maximum extent permitted by law),  
22                   and

23                   “(II) at least one proposal for in-  
24                   creases in contributions under the plan  
25                   necessary to achieve the benchmarks,

1                   *assuming no amendments reducing fu-*  
2                   *ture benefit accruals under the plan.*

3                   “(ii) *REQUESTS BY BARGAINING PAR-*  
4                   *TIES.—Upon the request of any bargaining*  
5                   *party who—*

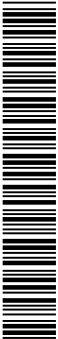
6                   *“(I) employs at least 5 percent of*  
7                   *the active participants, or*

8                   *“(II) represents as an employee*  
9                   *organization, for purposes of collective*  
10                  *bargaining, at least 5 percent of the*  
11                  *active participants,*

12                  *the plan sponsor shall provide all such par-*  
13                  *ties information as to other combinations of*  
14                  *increases in contributions and reductions in*  
15                  *future benefit accruals which would result*  
16                  *in achieving the benchmarks.*

17                  “(iii) *OTHER INFORMATION.—The*  
18                  *plan sponsor may, as it deems appropriate,*  
19                  *prepare and provide the bargaining parties*  
20                  *with additional information relating to con-*  
21                  *tribution structures or benefit structures or*  
22                  *other information relevant to the funding*  
23                  *improvement plan.*

24                  “(5) *MAINTENANCE OF CONTRIBUTIONS PENDING*  
25                  *APPROVAL OF FUNDING IMPROVEMENT PLAN.—Pend-*



1        *ing approval of a funding improvement plan by the*  
2        *bargaining parties with respect to a multiemployer*  
3        *plan, the multiemployer plan may not be amended so*  
4        *as to provide—*

5                *“(A) a reduction in the level of contribu-*  
6                *tions for participants who are not in pay status,*

7                *“(B) a suspension of contributions with re-*  
8                *spect to any period of service, or*

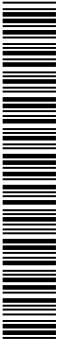
9                *“(C) any new direct or indirect exclusion of*  
10              *younger or newly hired employees from plan*  
11              *participation.*

12              *“(6) BENEFIT RESTRICTIONS PENDING APPROVAL*  
13              *OF FUNDING IMPROVEMENT PLAN.—Pending approval*  
14              *of a funding improvement plan by the bargaining*  
15              *parties with respect to a multiemployer plan—*

16              *“(A) RESTRICTIONS ON LUMP SUM AND*  
17              *SIMILAR DISTRIBUTIONS.—In any case in which*  
18              *the present value of a participant’s accrued ben-*  
19              *efit under the plan exceeds \$5,000, such benefit*  
20              *may not be distributed as an immediate dis-*  
21              *tribution or in any other accelerated form.*

22              *“(B) PROHIBITION ON BENEFIT IN-*  
23              *CREASES.—*

24              *“(i) IN GENERAL.—No amendment of*  
25              *the plan which increases the liabilities of*



1           the plan by reason of any increase in bene-  
2           fits, any change in the accrual of benefits,  
3           or any change in the rate at which benefits  
4           become nonforfeitable under the plan may  
5           be adopted.

6           “(ii) *EXCEPTION.*—Clause (i) shall not  
7           apply to any plan amendment which is re-  
8           quired as a condition of qualification under  
9           part I of subchapter D of chapter 1 of sub-  
10          title A.

11          “(7) *DEFAULT CRITICAL STATUS IF NO FUNDING*  
12          *IMPROVEMENT PLAN ADOPTED.*—If no plan amend-  
13          ment adopting a funding improvement plan has been  
14          adopted by the end of the 240-day period referred to  
15          in subsection (b)(1), the plan enters into critical sta-  
16          tus as of the first day of the succeeding plan year.

17          “(8) *RESTRICTIONS UPON APPROVAL OF FUNDING*  
18          *IMPROVEMENT PLAN.*—Upon adoption of a funding  
19          improvement plan with respect to a multiemployer  
20          plan, the plan may not be amended—

21                 “(A) so as to be inconsistent with the fund-  
22                 ing improvement plan, or

23                 “(B) so as to increase future benefit accru-  
24                 als, unless the plan actuary certifies in advance  
25                 that, after taking into account the proposed in-



1           crease, the plan is reasonably expected to meet  
2           the the benchmarks described in paragraph  
3           (3)(A).

4           “(c) *FUNDING RULES FOR MULTIEMPLOYER PLANS IN*  
5 *CRITICAL STATUS.*—

6           “(1) *IN GENERAL.*—*In any case in which a mul-*  
7 *tiemployer plan is in critical status for a plan year*  
8 *as described in paragraph (2) (or otherwise enters*  
9 *into critical status under this section) and no reha-*  
10 *bilitation plan under this subsection with respect to*  
11 *such multiemployer plan is in effect for the plan year,*  
12 *the plan sponsor shall, in accordance with this sub-*  
13 *section, amend the multiemployer plan to include a*  
14 *rehabilitation plan under this subsection. The amend-*  
15 *ment shall be adopted not later than 240 days after*  
16 *the date on which the plan enters into critical status.*

17           “(2) *CRITICAL STATUS.*—*A multiemployer plan*  
18 *is in critical status for a plan year if—*

19           “(A) *the plan is in endangered status for*  
20 *the preceding plan year and the requirements of*  
21 *subsection (b)(1) were not met with respect to the*  
22 *plan for such preceding plan year, or*

23           “(B) *as determined by the plan actuary*  
24 *under subsection (a), the plan is described in*  
25 *paragraph (3).*



1           “(3) *CRITICALITY DESCRIPTION.*—For purposes  
2           of paragraph (2)(B), a plan is described in this para-  
3           graph if the plan is described in at least one of the  
4           following subparagraphs:

5           “(A) A plan is described in this subpara-  
6           graph if, as of the beginning of the current plan  
7           year—

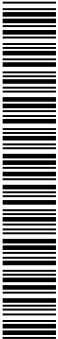
8           “(i) the funded percentage of the plan  
9           is less than 65 percent, and

10          “(ii) the sum of—

11               “(I) the market value of plan as-  
12               sets, plus

13               “(II) the present value of the rea-  
14               sonably anticipated employer and em-  
15               ployee contributions for the current  
16               plan year and each of the 6 succeeding  
17               plan years, assuming that the terms of  
18               the one or more collective bargaining  
19               agreements pursuant to which the plan  
20               is maintained for the current plan  
21               year continue in effect for succeeding  
22               plan years,

23               is less than the present value of all non-  
24               forfeitable benefits for all participants and  
25               beneficiaries projected to be payable under



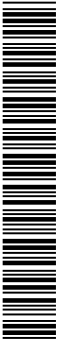
1           *the plan during the current plan year and*  
2           *each of the 6 succeeding plan years (plus*  
3           *administrative expenses for such plan*  
4           *years).*

5           “(B) A plan is described in this subpara-  
6           graph if, as of the beginning of the current plan  
7           year, the sum of—

8                   “(i) the market value of plan assets,  
9                   plus

10                   “(ii) the present value of the reason-  
11                   ably anticipated employer and employee  
12                   contributions for the current plan year and  
13                   each of the 4 succeeding plan years, assum-  
14                   ing that the terms of the one or more collec-  
15                   tive bargaining agreements pursuant to  
16                   which the plan is maintained for the cur-  
17                   rent plan year remain in effect for suc-  
18                   ceeding plan years,

19           *is less than the present value of all nonforfeitable*  
20           *benefits for all participants and beneficiaries*  
21           *projected to be payable under the plan during*  
22           *the current plan year and each of the 4 suc-*  
23           *ceeding plan years (plus administrative expenses*  
24           *for such plan years).*



1           “(C) *A plan is described in this subpara-*  
2           *graph if—*

3                   “(i) *as of the beginning of the current*  
4                   *plan year, the funded percentage of the plan*  
5                   *is less than 65 percent, and*

6                   “(ii) *the plan has an accumulated*  
7                   *funding deficiency for the current plan year*  
8                   *or is projected to have an accumulated*  
9                   *funding deficiency for any of the 4 suc-*  
10                  *ceeding plan years, not taking into account*  
11                  *any extension of amortization periods under*  
12                  *section 431(d).*

13           “(D) *A plan is described in this subpara-*  
14           *graph if—*

15                   “(i)(I) *the plan’s normal cost for the*  
16                   *current plan year, plus interest (determined*  
17                   *at the rate used for determining cost under*  
18                   *the plan) for the current plan year on the*  
19                   *amount of unfunded benefit liabilities under*  
20                   *the plan as of the last date of the preceding*  
21                   *plan year, exceeds*

22                   “(II) *the present value, as of the begin-*  
23                   *ning of the current plan year, of the reason-*  
24                   *ably anticipated employer and employee*  
25                   *contributions for the current plan year,*

1           “(ii) the present value, as of the begin-  
2           ning of the current plan year, of nonforfeit-  
3           able benefits of inactive participants is  
4           greater than the present value, as of the be-  
5           ginning of the current plan year, of non-  
6           forfeitable benefits of active participants,  
7           and

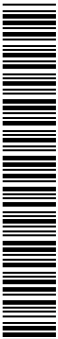
8           “(iii) the plan is projected to have an  
9           accumulated funding deficiency for the cur-  
10          rent plan year or any of the 4 succeeding  
11          plan years, not taking into account any ex-  
12          tension of amortization periods under sec-  
13          tion 431(d).

14          “(E) A plan is described in this subpara-  
15          graph if—

16               “(i) the funded percentage of the plan  
17               is greater than 65 percent for the current  
18               plan year, and

19               “(ii) the plan is projected to have an  
20               accumulated funding deficiency during any  
21               of the succeeding 3 plan years, not taking  
22               into account any extension of amortization  
23               periods under section 431(d).

24          “(4) REHABILITATION PLAN.—



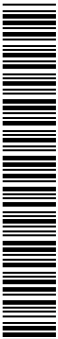
1           “(A) *IN GENERAL.*—*A rehabilitation plan*  
2           *shall consist of—*

3                   “(i) *amendments to the plan providing*  
4                   *(under reasonable actuarial assumptions)*  
5                   *for measures, agreed to by the bargaining*  
6                   *parties, to increase contributions, reduce*  
7                   *plan expenditures (including plan mergers*  
8                   *and consolidations), or reduce future benefit*  
9                   *accruals, or to take any combination of such*  
10                  *actions, determined necessary to cause the*  
11                  *plan to cease, during the rehabilitation pe-*  
12                  *riod, to be in critical status, or*

13                  “(ii) *reasonable measures to forestall*  
14                  *possible insolvency (within the meaning of*  
15                  *section 418E) if the plan sponsor deter-*  
16                  *mines that, upon exhaustion of all reason-*  
17                  *able measures, the plan would not cease*  
18                  *during the rehabilitation period to be in*  
19                  *critical status.*

20           “(B) *REHABILITATION PERIOD.*—*The reha-*  
21           *bilitation period for any rehabilitation plan*  
22           *adopted pursuant to this subsection is the 10-*  
23           *year period beginning on the earlier of—*

24                   “(i) *the second anniversary of the date*  
25                   *of the adoption of the rehabilitation plan, or*



1                   “(ii) the first day of the first plan year  
2                   of the multiemployer plan following the  
3                   plan year in which occurs the first date,  
4                   after the date of the plan’s entry into crit-  
5                   ical status, as of which collective bargaining  
6                   agreements covering at least 75 percent of  
7                   active participants in such multiemployer  
8                   plan (determined as of such date of entry)  
9                   have expired.

10                  “(C) *REPORTING.*—A summary of any re-  
11                  habilitation plan or modification thereto adopted  
12                  during any plan year, together with annual up-  
13                  dates regarding the funding ratio of the plan,  
14                  shall be included in the annual report for such  
15                  plan year under section 104(a) of the Employee  
16                  Retirement Income Security Act of 1974 and in  
17                  the summary annual report described in section  
18                  104(b)(3).

19                  “(5)     *DEVELOPMENT     OF     REHABILITATION*  
20                  *PLAN.*—

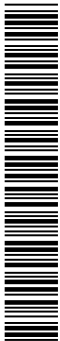
21                  “(A) *PROPOSALS BY PLAN SPONSOR.*—

22                         “(i) *IN GENERAL.*—Within 90 days  
23                         after the date of entry into critical status  
24                         (or the date as of which the requirements of  
25                         subsection (b)(1) are not met with respect to

1           *the plan), the plan sponsor shall propose to*  
2           *all bargaining parties a range of alternative*  
3           *schedules of increases in contributions and*  
4           *reductions in future benefit accruals that*  
5           *would serve to carry out a rehabilitation*  
6           *plan under this subsection.*

7                   “(ii) *PROPOSAL ASSUMING NO CON-*  
8                   *TRIBUTION INCREASES.—Such proposals*  
9                   *shall include, as one of the proposed sched-*  
10                   *ules, a schedule of those reductions in future*  
11                   *benefit accruals that would be necessary to*  
12                   *cause the plan to cease to be in critical sta-*  
13                   *tus if there were no further increases in*  
14                   *rates of contribution to the plan.*

15                   “(iii) *PROPOSAL WHERE CONTRIBU-*  
16                   *TIONS ARE NECESSARY.—If the plan spon-*  
17                   *sor determines that the plan will not cease*  
18                   *to be in critical status during the rehabili-*  
19                   *tation period unless the plan is amended to*  
20                   *provide for an increase in contributions, the*  
21                   *plan sponsor’s proposals shall include a*  
22                   *schedule of those increases in contribution*  
23                   *rates that would be necessary to cause the*  
24                   *plan to cease to be in critical status if fu-*



1           *ture benefit accruals were reduced to the*  
2           *maximum extent permitted by law.*

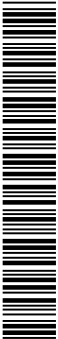
3           “(B) *REQUESTS FOR ADDITIONAL SCHED-*  
4           *ULES.—Upon the request of any bargaining*  
5           *party who—*

6                   “(i) *employs at least 5 percent of the*  
7                   *active participants, or*

8                   “(ii) *represents as an employee organi-*  
9                   *zation, for purposes of collective bargaining,*  
10                  *at least 5 percent of active participants,*

11           *the plan sponsor shall include among the pro-*  
12           *posed schedules such schedules of increases in*  
13           *contributions and reductions in future benefit*  
14           *accruals as may be specified by the bargaining*  
15           *parties.*

16           “(C) *SUBSEQUENT AMENDMENTS.—Upon*  
17           *the adoption of a schedule of increases in con-*  
18           *tributions or reductions in future benefit accru-*  
19           *als as part of the rehabilitation plan, the plan*  
20           *sponsor may amend the plan thereafter to update*  
21           *the schedule to adjust for any experience of the*  
22           *plan contrary to past actuarial assumptions, ex-*  
23           *cept that such an amendment may be made not*  
24           *more than once in any 3-year period.*





1           “(D) *ALLOCATION OF REDUCTIONS IN FUTURE BENEFIT ACCRUALS.*—Any schedule containing reductions in future benefit accruals forming a part of a rehabilitation plan shall be applicable with respect to any group of active participants who are employed by any bargaining party (as an employer obligated to contribute under the plan) in proportion to the extent to which increases in contributions under such schedule apply to such bargaining party.

11           “(E) *LIMITATION ON REDUCTION IN RATES OF FUTURE ACCRUALS.*—Any schedule proposed under this paragraph shall not reduce the rate of future accruals below the lower of—

15           “(i) a monthly benefit equal to 1 percent of the contributions required to be made with respect to a participant or the equivalent standard accrual rate for a participant or group of participants under the collective bargaining agreements in effect as of the first day of the plan year in which the plan enters critical status, or

23           “(ii) if lower, the accrual rate under the plan on such date.

1           *The equivalent standard accrual rate shall be de-*  
2           *termined by the trustees based on the standard or*  
3           *average contribution base units that they deter-*  
4           *mine to be representative for active participants*  
5           *and such other factors as they determine to be*  
6           *relevant.*

7           “(6) *MAINTENANCE OF CONTRIBUTIONS AND RE-*  
8           *STRICTIONS ON BENEFITS PENDING ADOPTION OF RE-*  
9           *HABILITATION PLAN.*—*The rules of paragraphs (5)*  
10          *and (6) of subsection (b) shall apply for purposes of*  
11          *this subsection by substituting the term ‘rehabilitation*  
12          *plan’ for ‘funding improvement plan’.*

13          “(7) *RESTRICTIONS UPON APPROVAL OF REHA-*  
14          *BILITATION PLAN.*—*Upon adoption of a rehabilitation*  
15          *plan with respect to a multiemployer plan, the plan*  
16          *may not be amended—*

17                 “(A) *so as to be inconsistent with the reha-*  
18                 *bilitation plan, or*

19                 “(B) *so as to increase future benefit accru-*  
20                 *als, unless the plan actuary certifies in advance*  
21                 *that, after taking into account the proposed in-*  
22                 *crease, the plan is reasonably expected to cease to*  
23                 *be in critical status.*

24          “(8) *IMPLEMENTATION OF DEFAULT SCHEDULE*  
25          *UPON FAILURE TO ADOPT REHABILITATION PLAN.*—*If*

1       *the plan is not amended by the end of the 240-day*  
2       *period after entry into critical status to include a re-*  
3       *habilitation plan, the plan sponsor shall amend the*  
4       *plan to implement the schedule required by para-*  
5       *graph (5)(A)(ii).*

6               “(9) *DEEMED WITHDRAWAL.*—*Upon the failure*  
7       *of any employer who has an obligation to contribute*  
8       *under the plan to make contributions in compliance*  
9       *with the schedule adopted under paragraph (4) as*  
10       *part of the rehabilitation plan, the failure of the em-*  
11       *ployer may, at the discretion of the plan sponsor, be*  
12       *treated as a withdrawal by the employer from the*  
13       *plan under section 4203 of the Employee Retirement*  
14       *Income Security Act of 1974 or a partial withdrawal*  
15       *by the employer under section 4205 of such Act.*

16               “(d) *DEFINITIONS.*—*For purposes of this section—*

17               “(1) *BARGAINING PARTY.*—*The term ‘bargaining*  
18       *party’ means, in connection with a multiemployer*  
19       *plan—*

20               “(A) *an employer who has an obligation to*  
21       *contribute under the plan, and*

22               “(B) *an employee organization which, for*  
23       *purposes of collective bargaining, represents plan*  
24       *participants employed by such an employer.*

1           “(2) *FUNDED PERCENTAGE.*—The term ‘funded  
2           percentage’ means the percentage expressed as a ratio  
3           of which—

4                   “(A) the numerator of which is the value of  
5           the plan’s assets, as determined under section  
6           431(c)(2), and

7                   “(B) the denominator of which is the ac-  
8           crued liability of the plan.

9           “(3) *ACCUMULATED FUNDING DEFICIENCY.*—The  
10          term ‘accumulated funding deficiency’ has the mean-  
11          ing provided such term in section 431(a).

12          “(4) *ACTIVE PARTICIPANT.*—The term ‘active  
13          participant’ means, in connection with a multiem-  
14          ployer plan, a participant who is in covered service  
15          under the plan.

16          “(5) *INACTIVE PARTICIPANT.*—The term ‘inactive  
17          participant’ means, in connection with a multiem-  
18          ployer plan, a participant who—

19                   “(A) is not in covered service under the  
20          plan, and

21                   “(B) is in pay status under the plan or has  
22          a nonforfeitable right to benefits under the plan.

23          “(6) *PAY STATUS.*—A person is in ‘pay status’  
24          under a multiemployer plan if—



1           “(A) at any time during the current plan  
2           year, such person is a participant or beneficiary  
3           under the plan and is paid an early, late, nor-  
4           mal, or disability retirement benefit under the  
5           plan (or a death benefit under the plan related  
6           to a retirement benefit), or

7           “(B) to the extent provided in regulations of  
8           the Secretary, such person is entitled to such a  
9           benefit under the plan.

10          “(7) *OBLIGATION TO CONTRIBUTE*.—The term  
11          ‘obligation to contribute’ has the meaning provided  
12          such term under section 4212(a) of the *Employee Re-*  
13          *irement Income Security Act of 1974*.

14          “(8) *ENTRY INTO CRITICAL STATUS*.—A plan  
15          shall be treated as entering into critical status as of  
16          the date that such plan is certified to be in critical  
17          status under subsection (a)(1), is presumed to be in  
18          critical status under subsection (a)(3), or enters into  
19          critical status under subsection (b)(7).”.

20          (b) *CLERICAL AMENDMENT*.—The table of sections for  
21          subpart A of part III of subchapter D of chapter 1 of such  
22          Code is amended by adding at the end the following new  
23          item:

          “Sec. 432. *Additional funding rules for multiemployer plans in endangered status  
          or critical status.*”.

1       (c) *EFFECTIVE DATE.*—*The amendment made by this*  
2 *section shall apply with respect to plan years beginning*  
3 *after December 31, 2005.*

4       (d) *SPECIAL RULE FOR 2006.*—*In the case of any plan*  
5 *year beginning in 2006, any reference in section 432 of the*  
6 *Internal Revenue Code of 1986 (as added by this section)*  
7 *to section 431 of such Code (as added by this Act) shall*  
8 *be treated as a reference to the corresponding provision of*  
9 *such Code as in effect for plan years beginning in such year.*

10 **SEC. 213. MEASURES TO FORESTALL INSOLVENCY OF MUL-**  
11 **TIEMPLOYER PLANS.**

12       (a) *ADVANCE DETERMINATION OF IMPENDING INSOL-*  
13 *VENCY OVER 5 YEARS.*—*Section 418E(d)(1) of the Internal*  
14 *Revenue Code of 1986 is amended—*

15               (1) *by striking “3 plan years” the second place*  
16 *it appears and inserting “5 plan years”, and*

17               (2) *by adding at the end the following new sen-*  
18 *tence: “If the plan sponsor makes such a determina-*  
19 *tion that the plan will be insolvent in any of the next*  
20 *5 plan years, the plan sponsor shall make the com-*  
21 *parison under this paragraph at least annually until*  
22 *the plan sponsor makes a determination that the plan*  
23 *will not be insolvent in any of the next 5 plan*  
24 *years.”.*

1       (b) *EFFECTIVE DATE.*—*The amendments made by this*  
2 *section shall apply with respect to determinations made in*  
3 *plan years beginning after December 31, 2005.*

4       ***TITLE III—OTHER PROVISIONS***

5       ***SEC. 301. INTEREST RATE FOR 2006 FUNDING REQUIRE-***  
6                               ***MENTS.***

7       (a) *IN GENERAL.*—*Subclause (II) of section*  
8 *412(b)(5)(B)(ii) of the Internal Revenue Code of 1986 is*  
9 *amended—*

10               (1) *by striking “January 1, 2006” and inserting*  
11               *“January 1, 2007”, and*

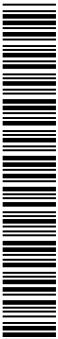
12               (2) *by striking “AND 2005” in the heading and*  
13               *inserting “, 2005, AND 2006”.*

14       (b) *CURRENT LIABILITY.*—*Subclause (IV) of section*  
15 *412(l)(7)(C)(i) of such Code is amended—*

16               (1) *by striking “or 2005” and inserting “, 2005,*  
17               *or 2006”, and*

18               (2) *by striking “AND 2005” in the heading and*  
19               *inserting “, 2005, AND 2006”.*

20       (c) *EFFECTIVE DATE.*—*The amendments made by this*  
21 *section shall apply to plan years beginning after December*  
22 *31, 2005.*



1 **SEC. 302. INTEREST RATE ASSUMPTION FOR DETERMINA-**  
2 **TION OF LUMP SUM DISTRIBUTIONS.**

3 (a) *AMENDMENTS TO EMPLOYEE RETIREMENT IN-*  
4 *COME SECURITY ACT OF 1974.*—[See section 301(a) of the  
5 *bill as reported by the Committee on Education and the*  
6 *Workforce.*]

7 (b) *AMENDMENTS TO INTERNAL REVENUE CODE OF*  
8 *1986.*—Section 417(e)(3)(A) of the Internal Revenue Code  
9 of 1986 is amended by striking clause (ii) and inserting  
10 the following:

11 “(ii) For purposes of clause (i), the  
12 term ‘applicable mortality table’ means a  
13 mortality table, modified as appropriate by  
14 the Secretary, based on the mortality table  
15 specified for the plan year under section  
16 430(h)(3).

17 “(iii) For purposes of clause (i), the  
18 term ‘applicable interest rate’ means the ad-  
19 justed first, second, and third segment rates  
20 applied under rules similar to the rules of  
21 section 430(h)(2)(C) for the month before  
22 the date of the distribution or such other  
23 time as the Secretary may by regulations  
24 prescribe.

25 “(iv) For purposes of clause (iii), the  
26 adjusted first, second, and third segment



1                    *rates are the first, second, and third seg-*  
 2                    *ment rates which would be determined*  
 3                    *under section 430(h)(2)(C) if—*

4                    *“(I) section 430(h)(2)(D)(i) were*  
 5                    *applied by substituting ‘the yields’ for*  
 6                    *‘a 3-year weighted average of yields’,*

7                    *“(II) section 430(h)(2)(G)(i)(II)*  
 8                    *were applied by substituting ‘section*  
 9                    *417(e)(3)(A)(ii)(II)’ for ‘section*  
 10                   *412(b)(5)(B)(ii)(II)’, and*

11                   *“(III) the applicable percentage*  
 12                   *under section 430(h)(2)(G) were deter-*  
 13                   *mined in accordance with the following*  
 14                   *table:*

<b><i>“In the case of plan years beginning in:</i></b>	<b><i>The applicable percentage is:</i></b>
<i>2007 .....</i>	<i>20 percent</i>
<i>2008 .....</i>	<i>40 percent</i>
<i>2009 .....</i>	<i>60 percent</i>
<i>2010 .....</i>	<i>80 percent.”.</i>

15                   *(c) SPECIAL RULE FOR PLAN AMENDMENTS.—A plan*  
 16                   *shall not fail to meet the requirements of section 411(d)(6)*  
 17                   *of the Internal Revenue Code of 1986 or section 204(g) of*  
 18                   *the Employee Retirement Income Security Act of 1974 sole-*  
 19                   *ly by reason of the adoption by the plan of an amendment*  
 20                   *necessary to meet the requirements of the amendments made*  
 21                   *by this section.*

1       (d) *EFFECTIVE DATE.*—*The amendments made by this*  
2 *section shall apply with respect to plan years beginning*  
3 *after December 31, 2006.*

4   **SEC. 303. INTEREST RATE ASSUMPTION FOR APPLYING**  
5                   **BENEFIT LIMITATIONS TO LUMP SUM DIS-**  
6                   **TRIBUTIONS.**

7       (a) *IN GENERAL.*—*Clause (ii) of section 415(b)(2)(E)*  
8 *of the Internal Revenue Code of 1986 is amended to read*  
9 *as follows:*

10                   “(ii) *For purposes of adjusting any*  
11 *benefit under subparagraph (B) for any*  
12 *form of benefit subject to section 417(e)(3),*  
13 *the interest rate assumption shall not be less*  
14 *than the greater of—*

15                   “(I) *5.5 percent,*

16                   “(II) *the rate that provides a ben-*  
17 *efit of not more than 105 percent of the*  
18 *benefit that would be provided if the*  
19 *applicable interest rate (as defined in*  
20 *section 417(e)(3)) were the interest rate*  
21 *assumption, or*

22                   “(III) *the rate specified under the*  
23 *plan.*”.

1       (b) *EFFECTIVE DATE.*—*The amendment made by sub-*  
2 *section (a) shall apply to distributions made in years begin-*  
3 *ning after December 31, 2005.*

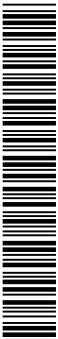
4 **SEC. 304. DISTRIBUTIONS DURING WORKING RETIREMENT.**

5       (a) *AMENDMENT TO THE EMPLOYEE RETIREMENT IN-*  
6 *COME SECURITY ACT OF 1974.*—*[See section 303(a) of the*  
7 *bill as reported by the Committee on Education and the*  
8 *Workforce.]*

9       (b) *AMENDMENT TO THE INTERNAL REVENUE CODE*  
10 *OF 1986.*—*Subsection (a) of section 401 of the Internal Rev-*  
11 *enue Code of 1986 is amended by inserting after paragraph*  
12 *(34) the following new paragraph:*

13               “(35) *DISTRIBUTIONS DURING WORKING RETIRE-*  
14 *MENT.*—*A trust forming part of a pension plan shall*  
15 *not be treated as failing to constitute a qualified trust*  
16 *under this section solely because a distribution is*  
17 *made from such trust to an employee who has at-*  
18 *tained age 62 and who is not separated from employ-*  
19 *ment at the time of such distribution.”.*

20       (c) *EFFECTIVE DATE.*—*The amendments made by this*  
21 *section shall apply to distributions in plan years beginning*  
22 *after December 31, 2005.*



1 **SEC. 305. OTHER AMENDMENTS RELATING TO PROHIBITED**  
2 **TRANSACTIONS.**

3 *[See section 304 of the bill as reported by the Com-*  
4 *mittee on Education and the Workforce.]*

5 **SEC. 306. CORRECTION PERIOD FOR CERTAIN TRANS-**  
6 **ACTIONS INVOLVING SECURITIES AND COM-**  
7 **MODITIES.**

8 *[See section 305 of the bill as reported by the Com-*  
9 *mittee on Education and the Workforce.]*

10 **SEC. 307. GOVERNMENT ACCOUNTABILITY OFFICE PENSION**  
11 **FUNDING REPORT.**

12 *[See section 306 of the bill as reported by the Com-*  
13 *mittee on Education and the Workforce.]*

14 **TITLE IV—IMPROVEMENTS IN**  
15 **PBGC GUARANTEE PROVISIONS**

16 **SEC. 401. INCREASES IN PBGC PREMIUMS.**

17 (a) *FLAT-RATE PREMIUMS.*—Section 4006(a)(3) of the  
18 *Employee Retirement Income Security Act of 1974* (29  
19 *U.S.C. 1306(a)(3))* is amended—

20 (1) *by striking clause (i) of subparagraph (A)*  
21 *and inserting the following:*

22 “(i) *in the case of a single-employer plan, an*  
23 *amount equal to—*

24 “(I) *for plan years beginning after Decem-*  
25 *ber 31, 1990, and before January 1, 2006, \$19,*  
26 *or*

1                   “(II) for plan years beginning after Decem-  
2                   ber 31, 2005, the amount determined under sub-  
3                   paragraph (F),  
4                   plus the additional premium (if any) determined  
5                   under subparagraph (E) for each individual who is  
6                   a participant in such plan during the plan year;”;  
7                   and

8                   (2) by adding at the end the following new sub-  
9                   paragraph:

10                  “(F)(i) Except as otherwise provided in this subpara-  
11                  graph, for purposes of determining the annual premium  
12                  rate payable to the corporation by a single-employer plan  
13                  for basic benefits guaranteed under this title, the amount  
14                  determined under this subparagraph is the greater of \$30  
15                  or the adjusted amount determined under clause (ii).

16                  “(ii) For plan years beginning after 2006, the adjusted  
17                  amount determined under this clause is the product derived  
18                  by multiplying \$30 by the ratio of—

19                         “(I) the national average wage index (as defined  
20                         in section 209(k)(1) of the Social Security Act) for the  
21                         first of the 2 calendar years preceding the calendar  
22                         year in which the plan year begins, to

23                         “(II) the national average wage index (as so de-  
24                         fined) for 2004,

1 *with such product, if not a multiple of \$1, being rounded*  
 2 *to the next higher multiple of \$1 where such product is a*  
 3 *multiple of \$0.50 but not of \$1, and to the nearest multiple*  
 4 *of \$1 in any other case.*

5 “(iii) *For purposes of determining the annual pre-*  
 6 *mium rate payable to the corporation by a single-employer*  
 7 *plan for basic benefits guaranteed under this title for any*  
 8 *plan year beginning after 2005 and before 2010—*

9 “(I) *except as provided in subclause (II), the pre-*  
 10 *mium amount referred to in subparagraph (A)(i)(II)*  
 11 *for any such plan year is the amount set forth in con-*  
 12 *nection with such plan year in the following table:*

<b><i>“If the plan year begins in:</i></b>	<b><i>The amount is:</i></b>
2006 .....	\$21.20
2007 .....	\$23.40
2008 .....	\$25.60
2009 .....	\$27.80; or

13 “(II) *if the plan’s funding target attainment*  
 14 *percentage for the plan year preceding the current*  
 15 *plan year was less than 80 percent, the premium*  
 16 *amount referred to in subparagraph (A)(i)(II) for*  
 17 *such current plan year is the amount set forth in con-*  
 18 *nection with such current plan year in the following*  
 19 *table:*

<b><i>“If the plan year begins in:</i></b>	<b><i>The amount is:</i></b>
2006 .....	\$22.67

2007 .....	\$26.33
2008 or 2009 .....	the amount provided under clause (i).

1       “(iv) For purposes of this subparagraph, the term  
2 ‘funding target attainment percentage’ has the meaning  
3 provided such term in section 303(d)(2).”.

4       (b) *PREMIUM RATE FOR CERTAIN TERMINATED SIN-*  
5 *GLE-EMPLOYER PLANS.*—Subsection (a) of section 4006 of  
6 such Act (29 U.S.C. 1306) is amended by adding at the  
7 end the following:

8       “(7) *PREMIUM RATE FOR CERTAIN TERMINATED SIN-*  
9 *GLE-EMPLOYER PLANS.*—

10           “(A) *IN GENERAL.*—If there is a termination of  
11 a single-employer plan under clause (ii) or (iii) of  
12 section 4041(c)(2)(B) or section 4042, there shall be  
13 payable to the corporation, with respect to each appli-  
14 cable 12-month period, a premium at a rate equal to  
15 \$1,250 multiplied by the number of individuals who  
16 were participants in the plan immediately before the  
17 termination date. Such premium shall be in addition  
18 to any other premium under this section.

19           “(B) *SPECIAL RULE FOR PLANS TERMINATED IN*  
20 *BANKRUPTCY REORGANIZATION.*—If the plan is termi-  
21 nated under 4041(c)(2)(B)(ii) or under section 4042  
22 and, as of the termination date, a person who is (as  
23 of such date) a contributing sponsor of the plan or a

1        *member of such sponsor's controlled group has filed or*  
2        *has had filed against such person a petition seeking*  
3        *reorganization in a case under title 11 of the United*  
4        *States Code, or under any similar law of a State or*  
5        *a political subdivision of a State (or a case described*  
6        *in section 4041(c)(2)(B)(i) filed by or against such*  
7        *person has been converted, as of such date, to such a*  
8        *case in which reorganization is sought), subparagraph*  
9        *(A) shall not apply to such plan until the date of the*  
10       *discharge of such person in such case.*

11                *“(C) APPLICABLE 12-MONTH PERIOD.—For pur-*  
12        *poses of subparagraph (A)—*

13                        *“(i) IN GENERAL.—The term ‘applicable 12-*  
14        *month period’ means—*

15                                *“(I) the 12-month period beginning*  
16        *with the first month following the month in*  
17        *which the termination date occurs, and*

18                                *“(II) each of the first two 12-month pe-*  
19        *riods immediately following the period de-*  
20        *scribed in subclause (I).*

21                        *“(ii) PLANS TERMINATED IN BANKRUPTCY*  
22        *REORGANIZATION.—In any case in which the re-*  
23        *quirements of subparagraph (B) are met in con-*  
24        *nection with the termination of the plan with re-*  
25        *spect to 1 or more persons described in such sub-*



1        *paragraph, the 12-month period described in*  
2        *clause (i)(I) shall be the 12-month period begin-*  
3        *ning with the first month following the month*  
4        *which includes the earliest date as of which each*  
5        *such person is discharged in the case described in*  
6        *such clause in connection with such person.*

7        *“(D) COORDINATION WITH SECTION 4007.—*

8                *“(i) Notwithstanding section 4007—*

9                        *“(I) premiums under this paragraph*  
10                      *shall be due within 30 days after the begin-*  
11                      *ning of any applicable 12-month period,*  
12                      *and*

13                      *“(II) the designated payor shall be the*  
14                      *person who is the contributing sponsor as of*  
15                      *immediately before the termination date.*

16                      *“(ii) The fifth sentence of section 4007(a)*  
17                      *shall not apply in connection with premiums de-*  
18                      *termined under this paragraph.”.*

19        *(c) RISK-BASED PREMIUMS.—*

20                *(1) EXTENSION THROUGH 2006.—Section*  
21                *4006(a)(3)(E)(iii)(V) of such Act is amended by strik-*  
22                *ing “January 1, 2006” and inserting “January 1,*  
23                *2007”.*

24                *(2) CONFORMING AMENDMENTS RELATED TO*  
25                *FUNDING RULES FOR SINGLE-EMPLOYER PLANS.—Sec-*

1        *tion 4006(a)(3)(E) of such Act is amended by striking*  
2        *clauses (iii) and (iv) and inserting the following:*

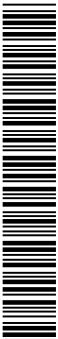
3        *“(iii)(I) For purposes of clause (ii), except as provided*  
4        *in subclause (II), the term ‘unfunded vested benefits’ means,*  
5        *for a plan year, the amount which would be the plan’s fund-*  
6        *ing shortfall (as defined in section 303(c)(4)), if the value*  
7        *of plan assets of the plan were equal to the fair market value*  
8        *of such assets and only vested benefits were taken into ac-*  
9        *count.*

10       *“(II) The interest rate used in valuing vested benefits*  
11       *for purposes of subclause (I) shall be equal to the first, sec-*  
12       *ond, or third segment rate which would be determined*  
13       *under section 303(h)(2)(C) if section 303(h)(2)(D)(i) were*  
14       *applied by substituting ‘the yields’ for ‘the 3-year weighted*  
15       *average of yields’, as applicable under rules similar to the*  
16       *rules under section 303(h)(2)(B).”.*

17       *(d) EFFECTIVE DATES.—*

18                *(1) IN GENERAL.—The amendments made by*  
19        *subsection (a) and (c)(1) shall apply to plan years be-*  
20        *ginning after December 31, 2005.*

21                *(2) PREMIUM RATE FOR CERTAIN TERMINATED*  
22        *SINGLE-EMPLOYER PLANS.—The amendment made by*  
23        *subsection (b) shall apply with respect to cases com-*  
24        *menced under title 11, United States Code, or under*



1        *any similar law of a State or political subdivision of*  
2        *a State after October 26, 2005.*

3            (3) *CONFORMING AMENDMENTS RELATED TO*  
4        *FUNDING RULES FOR SINGLE-EMPLOYER PLANS.—The*  
5        *amendments made by subsection (c)(2) shall take ef-*  
6        *fect on December 31, 2006, and shall apply to plan*  
7        *years beginning after such date.*

8            ***TITLE V—DISCLOSURE***

9        ***SEC. 501. DEFINED BENEFIT PLAN FUNDING NOTICES.***

10        *[See section 501 of the bill as reported by the Com-*  
11        *mittee on Education and the Workforce.]*

12        ***SEC. 502. ADDITIONAL DISCLOSURE REQUIREMENTS.***

13        *[See section 502 of the bill as reported by the Com-*  
14        *mittee on Education and the Workforce.]*

15        ***SEC. 503. SECTION 4010 FILINGS WITH THE PBGC.***

16        (a) *CHANGE IN CRITERIA FOR PERSONS REQUIRED TO*  
17        *PROVIDE INFORMATION TO PBGC.—Section 4010(b) of the*  
18        *Employee Retirement Income Security Act of 1974 (29*  
19        *U.S.C. 1310(b)) is amended by striking paragraph (1), by*  
20        *redesignating paragraphs (2) and (3) as paragraphs (3)*  
21        *and (4), respectively, and by inserting before paragraph (3)*  
22        *(as so redesignated) the following new paragraphs:*

23            “(1) *the aggregate funding target attainment*  
24        *percentage of the plan (as defined in subsection*  
25        *(d)(2)) is less than 60 percent;*

1           “(2)(A) *the aggregate funding target attainment*  
2           *percentage of the plan (as defined in subsection*  
3           *(d)(2)) is less than 75 percent, and*

4           “(B) *the plan sponsor is in an industry with re-*  
5           *spect to which the corporation determines that there*  
6           *is substantial unemployment or underemployment*  
7           *and the sales and profits are depressed or declining;”.*

8           (b) *NOTICE TO PARTICIPANTS AND BENEFICIARIES.—*  
9           *Section 4010 of the Employee Retirement Income Security*  
10          *Act of 1974 (29 U.S.C. 1310) is amended by adding at the*  
11          *end the following new subsection:*

12          “(d) *NOTICE TO PARTICIPANTS AND BENE-*  
13          *FICIARIES.—*

14               “(1) *IN GENERAL.—Not later than 90 days after*  
15               *the submission by any person to the corporation of*  
16               *information or documentary material with respect to*  
17               *any plan pursuant to subsection (a), such person*  
18               *shall provide notice of such submission to each partic-*  
19               *ipant and beneficiary under the plan (and under all*  
20               *plans maintained by members of the controlled group*  
21               *of each contributing sponsor of the plan). Such notice*  
22               *shall also set forth—*

23               “(A) *the number of single-employer plans*  
24               *covered by this title which are in at-risk status*  
25               *and are maintained by contributing sponsors of*

1        *such plan (and by members of their controlled*  
2        *groups) with respect to which the funding target*  
3        *attainment percentage for the preceding plan*  
4        *year of each plan is less than 60 percent;*

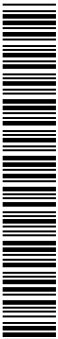
5                *“(B) the value of the assets of each of the*  
6        *plans described in subparagraph (A) for the plan*  
7        *year, the funding target for each of such plans*  
8        *for the plan year, and the funding target attain-*  
9        *ment percentage of each of such plans for the*  
10       *plan year; and*

11               *“(C) taking into account all single-employer*  
12       *plans maintained by the contributing sponsor*  
13       *and the members of its controlled group as of the*  
14       *end of such plan year—*

15                *“(i) the aggregate total of the values of*  
16       *plan assets of such plans as of the end of*  
17       *such plan year,*

18                *“(ii) the aggregate total of the funding*  
19       *targets of such plans, as of the end of such*  
20       *plan year, taking into account only benefits*  
21       *to which participants and beneficiaries have*  
22       *a nonforfeitable right, and*

23                *“(iii) the aggregate funding targets at-*  
24       *tainment percentage with respect to the con-*



1           *tributing sponsor for the preceding plan*  
2           *year.*

3           “(2) *DEFINITIONS.—For purposes of this*  
4           *subsection—*

5           “(A) *VALUE OF PLAN ASSETS.—The term*  
6           *‘value of plan assets’ means the value of plan as-*  
7           *sets, as determined under section 303(g)(3).*

8           “(B) *FUNDING TARGET.—The term ‘funding*  
9           *target’ has the meaning provided under section*  
10           *303(d)(1).*

11           “(C) *FUNDING TARGET ATTAINMENT PER-*  
12           *CENTAGE.—The term ‘funding target attainment*  
13           *percentage’ has the meaning provided in section*  
14           *303(d)(2).*

15           “(D) *AGGREGATE FUNDING TARGETS AT-*  
16           *TAINMENT PERCENTAGE.—The term ‘aggregate*  
17           *funding targets attainment percentage’ with re-*  
18           *spect to a contributing sponsor for a plan year*  
19           *is the percentage, taking into account all plans*  
20           *maintained by the contributing sponsor and the*  
21           *members of its controlled group as of the end of*  
22           *such plan year, which*

23           *“(i) the aggregate total of the values of*  
24           *plan assets, as of the end of such plan year,*  
25           *of such plans, is of*

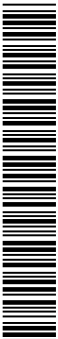
1                   “(ii) the aggregate total of the funding  
2                   targets of such plans, as of the end of such  
3                   plan year, taking into account only benefits  
4                   to which participants and beneficiaries have  
5                   a nonforfeitable right.

6                   “(E) *AT-RISK STATUS*.—The term ‘at-risk  
7                   status’ has the meaning provided in section  
8                   303(i)(3).

9                   “(3) *COMPLIANCE*.—

10                  “(A) *IN GENERAL*.—Any notice required to  
11                  be provided under paragraph (1) may be pro-  
12                  vided in written, electronic, or other appropriate  
13                  form to the extent such form is reasonably acces-  
14                  sible to individuals to whom the information is  
15                  required to be provided.

16                  “(B) *LIMITATIONS*.—In no case shall a par-  
17                  ticipant or beneficiary be entitled under this sub-  
18                  section to receive more than one notice described  
19                  in paragraph (1) during any one 12-month pe-  
20                  riod. The person required to provide such notice  
21                  may make a reasonable charge to cover copying,  
22                  mailing, and other costs of furnishing such no-  
23                  tice pursuant to paragraph (1). The corporation  
24                  may by regulations prescribe the maximum



1           *amount which will constitute a reasonable charge*  
2           *under the preceding sentence.*

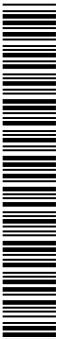
3           “(4) *NOTICE TO CONGRESS.*—*Concurrent with*  
4           *the provision of any notice under paragraph (1), such*  
5           *person shall provide such notice to the Committee on*  
6           *Education and the Workforce and the Committee on*  
7           *Ways and Means of the House of Representatives and*  
8           *the Committee on Health, Education, Labor, and*  
9           *Pensions and the Committee on Finance of the Sen-*  
10          *ate, which shall be treated as materials provided in*  
11          *executive session.”.*

12          *(c) EFFECTIVE DATE.*—*The amendment made by this*  
13          *section shall apply with respect to plan years beginning*  
14          *after December 31, 2006.*

15       ***TITLE VI—INVESTMENT ADVICE***

16       ***SEC. 601. AMENDMENTS TO EMPLOYEE RETIREMENT IN-***  
17               ***COME SECURITY ACT OF 1974 PROVIDING***  
18               ***PROHIBITED TRANSACTION EXEMPTION FOR***  
19               ***PROVISION OF INVESTMENT ADVICE.***

20       *[See section 601 of the bill as reported by the Com-*  
21       *mittee on Education and the Workforce.]*





1 **SEC. 602. AMENDMENTS TO INTERNAL REVENUE CODE OF**  
2 **1986 PROVIDING PROHIBITED TRANSACTION**  
3 **EXEMPTION FOR PROVISION OF INVESTMENT**  
4 **ADVICE.**

5 (a) *EXEMPTION FROM PROHIBITED TRANSACTIONS.*—  
6 *Subsection (d) of section 4975 of the Internal Revenue Code*  
7 *of 1986 (relating to exemptions from tax on prohibited*  
8 *transactions) is amended—*

9 (1) *in paragraph (15), by striking “or” at the*  
10 *end;*

11 (2) *in paragraph (16), by striking the period at*  
12 *the end and inserting “; or”; and*

13 (3) *by adding at the end the following new para-*  
14 *graph:*

15 “(17) *any transaction described in subsection*  
16 *(f)(8)(A) in connection with the provision of invest-*  
17 *ment advice described in subsection (e)(3)(B)(i), in*  
18 *any case in which—*

19 “(A) *the investment of assets of the plan is*  
20 *subject to the direction of plan participants or*  
21 *beneficiaries,*

22 “(B) *the advice is provided to the plan or*  
23 *a participant or beneficiary of the plan by a fi-*  
24 *ducuary adviser in connection with any sale, ac-*  
25 *quisition, or holding of a security or other prop-*

1 *erty for purposes of investment of plan assets,*  
2 *and*  
3 *“(C) the requirements of subsection (f)(8)(B)*  
4 *are met in connection with the provision of the*  
5 *advice.”.*

6 *(b) ALLOWED TRANSACTIONS AND REQUIREMENTS.—*  
7 *Subsection (f) of such section 4975 (relating to other defini-*  
8 *tions and special rules) is amended by adding at the end*  
9 *the following new paragraph:*

10 *“(8) PROVISIONS RELATING TO INVESTMENT AD-*  
11 *VICE PROVIDED BY FIDUCIARY ADVISERS.—*

12 *“(A) TRANSACTIONS ALLOWABLE IN CON-*  
13 *NECTION WITH INVESTMENT ADVICE PROVIDED*  
14 *BY FIDUCIARY ADVISERS.—The transactions re-*  
15 *ferred to in subsection (d)(17), in connection*  
16 *with the provision of investment advice by a fi-*  
17 *duciary adviser, are the following:*

18 *“(i) the provision of the advice to the*  
19 *plan, participant, or beneficiary;*

20 *“(ii) the sale, acquisition, or holding of*  
21 *a security or other property (including any*  
22 *lending of money or other extension of cred-*  
23 *it associated with the sale, acquisition, or*  
24 *holding of a security or other property)*  
25 *pursuant to the advice; and*

1                   “(iii) the direct or indirect receipt of  
2                   fees or other compensation by the fiduciary  
3                   adviser or an affiliate thereof (or any em-  
4                   ployee, agent, or registered representative of  
5                   the fiduciary adviser or affiliate) in connec-  
6                   tion with the provision of the advice or in  
7                   connection with a sale, acquisition, or hold-  
8                   ing of a security or other property pursuant  
9                   to the advice.

10                  “(B) REQUIREMENTS RELATING TO PROVI-  
11                  SION OF INVESTMENT ADVICE BY FIDUCIARY AD-  
12                  VISERS.—The requirements of this subparagraph  
13                  (referred to in subsection (d)(17)(C)) are met in  
14                  connection with the provision of investment ad-  
15                  vice referred to in subsection (e)(3)(B), provided  
16                  to a plan or a participant or beneficiary of a  
17                  plan by a fiduciary adviser with respect to the  
18                  plan in connection with any sale, acquisition, or  
19                  holding of a security or other property for pur-  
20                  poses of investment of amounts held by the plan,  
21                  if—

22                         “(i) in the case of the initial provision  
23                         of the advice with regard to the security or  
24                         other property by the fiduciary adviser to  
25                         the plan, participant, or beneficiary, the fi-

1           *duciary adviser provides to the recipient of*  
2           *the advice, at a time reasonably contem-*  
3           *poraneous with the initial provision of the*  
4           *advice, a written notification (which may*  
5           *consist of notification by means of electronic*  
6           *communication)—*

7                     *“(I) of all fees or other compensa-*  
8                     *tion relating to the advice that the fi-*  
9                     *duciary adviser or any affiliate thereof*  
10                    *is to receive (including compensation*  
11                    *provided by any third party) in con-*  
12                    *nection with the provision of the advice*  
13                    *or in connection with the sale, acquisi-*  
14                    *tion, or holding of the security or other*  
15                    *property,*

16                    *“(II) of any material affiliation*  
17                    *or contractual relationship of the fidu-*  
18                    *ciary adviser or affiliates thereof in the*  
19                    *security or other property,*

20                    *“(III) of any limitation placed on*  
21                    *the scope of the investment advice to be*  
22                    *provided by the fiduciary adviser with*  
23                    *respect to any such sale, acquisition, or*  
24                    *holding of a security or other property,*

1           “(IV) of the types of services pro-  
2           vided by the fiduciary adviser in con-  
3           nection with the provision of invest-  
4           ment advice by the fiduciary adviser,

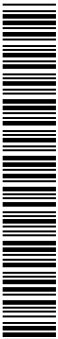
5           “(V) that the adviser is acting as  
6           a fiduciary of the plan in connection  
7           with the provision of the advice, and

8           “(VI) that a recipient of the ad-  
9           vice may separately arrange for the  
10          provision of advice by another adviser,  
11          that could have no material affiliation  
12          with and receive no fees or other com-  
13          pensation in connection with the secu-  
14          rity or other property,

15          “(ii) the fiduciary adviser provides ap-  
16          propriate disclosure, in connection with the  
17          sale, acquisition, or holding of the security  
18          or other property, in accordance with all  
19          applicable securities laws,

20          “(iii) the sale, acquisition, or holding  
21          occurs solely at the direction of the recipient  
22          of the advice,

23          “(iv) the compensation received by the  
24          fiduciary adviser and affiliates thereof in  
25          connection with the sale, acquisition, or



1           *holding of the security or other property is*  
2           *reasonable, and*

3           “(v) *the terms of the sale, acquisition,*  
4           *or holding of the security or other property*  
5           *are at least as favorable to the plan as an*  
6           *arm’s length transaction would be.*

7           “(C) *STANDARDS FOR PRESENTATION OF IN-*  
8           *FORMATION.—The notification required to be*  
9           *provided to participants and beneficiaries under*  
10          *subparagraph (B)(i) shall be written in a clear*  
11          *and conspicuous manner and in a manner cal-*  
12          *culated to be understood by the average plan*  
13          *participant and shall be sufficiently accurate*  
14          *and comprehensive to reasonably apprise such*  
15          *participants and beneficiaries of the information*  
16          *required to be provided in the notification.*

17          “(D) *EXEMPTION CONDITIONED ON MAKING*  
18          *REQUIRED INFORMATION AVAILABLE ANNUALLY,*  
19          *ON REQUEST, AND IN THE EVENT OF MATERIAL*  
20          *CHANGE.—The requirements of subparagraph*  
21          *(B)(i) shall be deemed not to have been met in*  
22          *connection with the initial or any subsequent*  
23          *provision of advice described in subparagraph*  
24          *(B) to the plan, participant, or beneficiary if, at*  
25          *any time during the provision of advisory serv-*



1        *ices to the plan, participant, or beneficiary, the*  
2        *fiduciary adviser fails to maintain the informa-*  
3        *tion described in subclauses (I) through (IV) of*  
4        *subparagraph (B)(i) in currently accurate form*  
5        *and in the manner required by subparagraph*  
6        *(C), or fails—*

7                *“(i) to provide, without charge, such*  
8                *currently accurate information to the re-*  
9                *cipient of the advice no less than annually,*

10               *“(ii) to make such currently accurate*  
11               *information available, upon request and*  
12               *without charge, to the recipient of the ad-*  
13               *vice, or*

14               *“(iii) in the event of a material change*  
15               *to the information described in subclauses*  
16               *(I) through (IV) of subparagraph (B)(i), to*  
17               *provide, without charge, such currently ac-*  
18               *curate information to the recipient of the*  
19               *advice at a time reasonably contempora-*  
20               *neous to the material change in informa-*  
21               *tion.*

22               *“(E) MAINTENANCE FOR 6 YEARS OF EVI-*  
23               *DENCE OF COMPLIANCE.—A fiduciary adviser re-*  
24               *ferred to in subparagraph (B) who has provided*  
25               *advice referred to in such subparagraph shall, for*

1           *a period of not less than 6 years after the provi-*  
2           *sion of the advice, maintain any records nec-*  
3           *essary for determining whether the requirements*  
4           *of the preceding provisions of this paragraph*  
5           *and of subsection (d)(17) have been met. A trans-*  
6           *action prohibited under subsection (c)(1) shall*  
7           *not be considered to have occurred solely because*  
8           *the records are lost or destroyed prior to the end*  
9           *of the 6-year period due to circumstances beyond*  
10          *the control of the fiduciary adviser.*

11           “(F) *EXEMPTION FOR PLAN SPONSOR AND*  
12           *CERTAIN OTHER FIDUCIARIES.—A plan sponsor*  
13           *or other person who is a fiduciary (other than a*  
14           *fiduciary adviser) shall not be treated as failing*  
15           *to meet the requirements of this section solely by*  
16           *reason of the provision of investment advice re-*  
17           *ferred to in subsection (e)(3)(B) (or solely by*  
18           *reason of contracting for or otherwise arranging*  
19           *for the provision of the advice), if—*

20                   “(i) *the advice is provided by a fidu-*  
21                   *ciary adviser pursuant to an arrangement*  
22                   *between the plan sponsor or other fiduciary*  
23                   *and the fiduciary adviser for the provision*  
24                   *by the fiduciary adviser of investment ad-*  
25                   *vice referred to in such section,*



1           “(ii) *the terms of the arrangement re-*  
2           *quire compliance by the fiduciary adviser*  
3           *with the requirements of this paragraph,*

4           “(iii) *the terms of the arrangement in-*  
5           *clude a written acknowledgment by the fidu-*  
6           *ciary adviser that the fiduciary adviser is a*  
7           *fiduciary of the plan with respect to the*  
8           *provision of the advice, and*

9           “(iv) *the requirements of part 4 of sub-*  
10          *title B of title I of the Employee Retirement*  
11          *Income Security Act of 1974 are met in*  
12          *connection with the provision of such ad-*  
13          *vice.*

14          “(G) *DEFINITIONS.—For purposes of this*  
15          *paragraph and subsection (d)(17)—*

16          “(i) *FIDUCIARY ADVISER.—The term*  
17          *‘fiduciary adviser’ means, with respect to a*  
18          *plan, a person who is a fiduciary of the*  
19          *plan by reason of the provision of invest-*  
20          *ment advice by the person to the plan or to*  
21          *a participant or beneficiary and who is—*

22                “(I) *registered as an investment*  
23                *adviser under the Investment Advisers*  
24                *Act of 1940 (15 U.S.C. 80b–1 et seq.)*  
25                *or under the laws of the State in which*



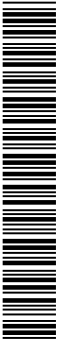
1           *the fiduciary maintains its principal*  
2           *office and place of business,*

3                     “(II) a bank or similar financial  
4           *institution referred to in subsection*  
5           *(d)(4) or a savings association (as de-*  
6           *finied in section 3(b)(1) of the Federal*  
7           *Deposit Insurance Act (12 U.S.C.*  
8           *1813(b)(1))), but only if the advice is*  
9           *provided through a trust department of*  
10          *the bank or similar financial institu-*  
11          *tion or savings association which is*  
12          *subject to periodic examination and re-*  
13          *view by Federal or State banking au-*  
14          *thorities,*

15                    “(III) an insurance company  
16          *qualified to do business under the laws*  
17          *of a State,*

18                    “(IV) a person registered as a  
19          *broker or dealer under the Securities*  
20          *Exchange Act of 1934 (15 U.S.C. 78a*  
21          *et seq.),*

22                    “(V) an affiliate of a person de-  
23          *scribed in any of subclauses (I)*  
24          *through (IV), or*



1                   “(VI) *an employee, agent, or reg-*  
2                   *istered representative of a person de-*  
3                   *scribed in any of subclauses (I)*  
4                   *through (V) who satisfies the require-*  
5                   *ments of applicable insurance, bank-*  
6                   *ing, and securities laws relating to the*  
7                   *provision of the advice.*

8                   “(ii) *AFFILIATE.—The term ‘affiliate’*  
9                   *of another entity means an affiliated person*  
10                  *of the entity (as defined in section 2(a)(3)*  
11                  *of the Investment Company Act of 1940 (15*  
12                  *U.S.C. 80a–2(a)(3))).*

13                  “(iii) *REGISTERED REPRESENTA-*  
14                  *TIVE.—The term ‘registered representative’*  
15                  *of another entity means a person described*  
16                  *in section 3(a)(18) of the Securities Ex-*  
17                  *change Act of 1934 (15 U.S.C. 78c(a)(18))*  
18                  *(substituting the entity for the broker or*  
19                  *dealer referred to in such section) or a per-*  
20                  *son described in section 202(a)(17) of the*  
21                  *Investment Advisers Act of 1940 (15 U.S.C.*  
22                  *80b–2(a)(17)) (substituting the entity for*  
23                  *the investment adviser referred to in such*  
24                  *section).’.*

1       (c) *EFFECTIVE DATE.*—*The amendments made by this*  
2 *section shall apply with respect to advice referred to in sec-*  
3 *tion 4975(c)(3)(B) of the Internal Revenue Code of 1986*  
4 *provided on or after January 1, 2006.*

5       ***TITLE VII—BENEFIT ACCRUAL***  
6                   ***STANDARDS***

7       ***SEC. 701. IMPROVEMENTS IN BENEFIT ACCRUAL STAND-***  
8                   ***ARDS.***

9       (a) *AMENDMENTS TO THE EMPLOYEE RETIREMENT*  
10 *INCOME SECURITY ACT OF 1974.*—*[See section 701(a) of*  
11 *the bill as reported by the Committee on Education and*  
12 *the Workforce.]*

13       (b) *AMENDMENTS TO THE INTERNAL REVENUE CODE*  
14 *OF 1986.*—

15               (1) *RULES RELATING TO REDUCTION IN AC-*  
16 *CRUED BENEFITS BECAUSE OF ATTAINMENT OF ANY*  
17 *AGE.*—*Subparagraph (H) of section 411(b)(1) of the*  
18 *Internal Revenue Code of 1986 is amended by adding*  
19 *at the end the following new clauses:*

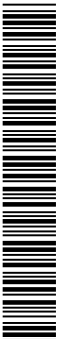
20                       “(vi) *COMPARISON TO SIMILARLY SITU-*  
21 *ATED YOUNGER INDIVIDUAL.*—

22                       “(I) *IN GENERAL.*—*A plan shall*  
23 *not be treated as failing to meet the re-*  
24 *quirements of clause (i) if a partici-*  
25 *part’s entire accrued benefit, as deter-*

1 *mined as of any date under the for-*  
2 *mula for determining benefits as set*  
3 *forth in the text of the plan documents,*  
4 *would be equal to or greater than that*  
5 *of any similarly situated, younger in-*  
6 *dividual.*

7 “(II) *SIMILARLY SITUATED.—For*  
8 *purposes of this clause, an individual*  
9 *is similarly situated to a participant*  
10 *if such individual is identical to such*  
11 *participant in every respect (including*  
12 *period of service, compensation, posi-*  
13 *tion, date of hire, work history, and*  
14 *any other respect) except for age.*

15 “(III) *DISREGARD OF SUB-*  
16 *SIDIZED EARLY RETIREMENT BENE-*  
17 *FITS.—In determining the entire ac-*  
18 *crued benefit for purposes of this*  
19 *clause, the subsidized portion of any*  
20 *early retirement benefit (including any*  
21 *early retirement subsidy that is fully*  
22 *or partially included or reflected in an*  
23 *employee’s opening balance or other*  
24 *transition benefits) shall be dis-*  
25 *regarded.*



1                   “(vii) *INTEREST ON HYPOTHETICAL*  
2                   *ACCOUNTS.*—A plan under which the ac-  
3                   *crued benefit payable under the plan upon*  
4                   *distribution (or any portion thereof) is ex-*  
5                   *pressed as the balance of a hypothetical ac-*  
6                   *count maintained for the participant shall*  
7                   *not be treated as failing to meet the require-*  
8                   *ments of clause (i) solely because interest*  
9                   *accruing on such balance is taken into ac-*  
10                  *count.*

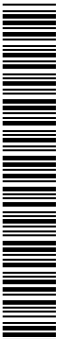
11                  “(viii) *CERTAIN OFFSETS PER-*  
12                  *MITTED.*—A plan shall not be treated as  
13                  *failing to meet the requirements of this sub-*  
14                  *paragraph solely because the plan provides*  
15                  *allowable offsets against those benefits under*  
16                  *the plan which are attributable to employer*  
17                  *contributions, based on benefits which are*  
18                  *provided under title II of the Social Secu-*  
19                  *rity Act, the Railroad Retirement Act of*  
20                  *1974, another plan described in section*  
21                  *401(a) maintained by the same employer, or*  
22                  *under any retirement program for officers*  
23                  *or employees of the Federal Government or*  
24                  *of the government of any State or political*  
25                  *subdivision thereof. For purposes of this*

1 *clause, allowable offsets based on such bene-*  
2 *fits consist of offsets equal to all or part of*  
3 *the actual benefit payment amounts, reason-*  
4 *able projections or estimations of such ben-*  
5 *efit payment amounts, or actuarial equiva-*  
6 *lents of such actual benefit payment*  
7 *amounts, projections, or estimations (deter-*  
8 *mined on the basis of reasonable actuarial*  
9 *assumptions).*

10 *“(ix) PERMITTED DISPARITIES IN PLAN*  
11 *CONTRIBUTIONS OR BENEFITS.—A plan*  
12 *shall not be treated as failing to meet the*  
13 *requirements of this subparagraph solely be-*  
14 *cause the plan provides a disparity in con-*  
15 *tributions or benefits with respect to which*  
16 *the requirements of section 401(l) are met.*

17 *“(x) PRE-RETIREMENT INDEXING PER-*  
18 *MITTED.—*

19 *“(I) IN GENERAL.—A plan shall*  
20 *not be treated as failing to meet the re-*  
21 *quirements of this subparagraph solely*  
22 *because the plan provides for pre-re-*  
23 *irement indexing of accrued benefits*  
24 *under the plan.*

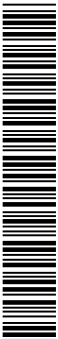


1                   “(II) *PRE-RETIREMENT INDEX-*  
2                   *ING.*—For purposes of this clause, the  
3                   term ‘pre-retirement indexing’ means,  
4                   in connection with an accrued benefit,  
5                   the periodic adjustment of the accrued  
6                   benefit by means of the application of  
7                   a recognized index or methodology so  
8                   as to protect the economic value of the  
9                   benefit against inflation prior to dis-  
10                  tribution.”.

11               (2) *DETERMINATIONS OF ACCRUED BENEFIT AS*  
12               *BALANCE OF BENEFIT ACCOUNT.*—Subsection (a) of  
13               section 411 of such Code is amended by adding at the  
14               end the following new paragraph:

15               “(13) *DETERMINATIONS OF ACCRUED BENEFIT*  
16               *AS BALANCE OF BENEFIT ACCOUNT.*—

17               “(A) *IN GENERAL.*—A defined benefit plan  
18               under which the accrued benefit payable under  
19               the plan upon distribution (or any portion there-  
20               of) is expressed as the balance of a hypothetical  
21               account maintained for the participant shall not  
22               be treated as failing to meet the requirements of  
23               subsection (a)(2) and section 417(e) solely be-  
24               cause of the amount actually made available for  
25               such distribution under the terms of the plan, in





1           *any case in which the applicable interest rate*  
2           *that would be used under the terms of the plan*  
3           *to project the amount of the participant's ac-*  
4           *count balance to normal retirement age is not*  
5           *greater than a market rate of return.*

6           “(B) *REGULATIONS.*—*The Secretary may*  
7           *provide by regulation for rules governing the cal-*  
8           *culation of a market rate of return for purposes*  
9           *of subparagraph (A) and for permissible methods*  
10          *of crediting interest to the account (including*  
11          *variable interest rates) resulting in effective rates*  
12          *of return meeting the requirements of subpara-*  
13          *graph (A).”.*

14          “(c) *EFFECTIVE DATE.*—*The amendments made by this*  
15          *section shall apply to periods beginning on or after June*  
16          *29, 2005.*

17                   ***TITLE VIII—DEDUCTION***  
18                   ***LIMITATIONS***

19          ***SEC. 801. INCREASE IN DEDUCTION LIMITS.***

20          “(a) *INCREASE IN DEDUCTION LIMIT FOR SINGLE-EM-*  
21          *PLOYER PLANS.*—*Section 404 of the Internal Revenue Code*  
22          *of 1986 (relating to deduction for contributions of an em-*  
23          *ployer to an employees' trust or annuity plan and com-*  
24          *pensation under a deferred payment plan) is amended—*

1           (1) *in subsection (a)(1)(A), by inserting “in the*  
2           *case of a defined benefit plan other than a multiem-*  
3           *ployer plan, in an amount determined under sub-*  
4           *section (o), and in the case of any other plan” after*  
5           *“section 501(a),”, and*

6           (2) *by inserting at the end the following new*  
7           *subsection:*

8           “(o) *DEDUCTION LIMIT FOR SINGLE-EMPLOYER*  
9           *PLANS.—For purposes of subsection (a)(1)(A)—*

10           “(1) *IN GENERAL.—In the case of a defined ben-*  
11           *efit plan to which subsection (a)(1)(A) applies (other*  
12           *than a multiemployer plan), the amount determined*  
13           *under this subsection for any taxable year shall be*  
14           *equal to the amount determined under paragraph (2)*  
15           *with respect to each plan year ending with or within*  
16           *the taxable year.*

17           “(2) *DETERMINATION OF AMOUNT.—The amount*  
18           *determined under this paragraph for any plan year*  
19           *shall be equal to the excess (if any) of—*

20           “(A) *the greater of—*

21           “(i) *the sum of—*

22                   “(I) *150 percent of the funding*  
23                   *target applicable to the plan for such*  
24                   *plan year, determined under section*  
25                   *430, plus*

1                   “(II) the target normal cost appli-  
2                   cable to the plan for such plan year,  
3                   determined under section 430(b), or

4                   “(ii) in the case of a plan that is not  
5                   in an at-risk status (as determined under  
6                   430(i)), the sum of—

7                   “(I) the funding target which  
8                   would be applicable to the plan for  
9                   such plan year if such plan were in an  
10                  at-risk status, determined under sec-  
11                  tion 430(d) (with regard to section  
12                  430(i)), plus

13                  “(II) the target normal cost which  
14                  would be applicable to the plan for  
15                  such plan year if such plan were in an  
16                  at-risk status, determined under sec-  
17                  tion 430(d) (with regard to section  
18                  430(i)), over

19                  “(B) the value of the plan assets (deter-  
20                  mined under section 430(g)).

21                  “(3) SPECIAL RULE FOR TERMINATING PLANS.—

22                  In the case of a plan which, subject to section 4041  
23                  of the Employee Retirement Income Security Act of  
24                  1974, terminates during the plan year, the amount  
25                  determined under paragraph (2) shall not be less than

1       *the amount required to make the plan sufficient for*  
2       *benefit liabilities (within the meaning of section*  
3       *4041(d) of such Act).*

4               “(4) *DEFINITIONS.*—Any term used in this sub-  
5       *section which is also used in section 430 shall have*  
6       *the same meaning given such term by section 430.”.*

7       *(b) INCREASE IN DEDUCTION LIMIT FOR MULTIEM-*  
8       *PLOYER PLANS.*—Section 404(a)(1)(D) of such Code is  
9       *amended to read as follows:*

10               “(D) *MINIMUM DEDUCTION FOR MULTIEM-*  
11       *PLOYER PLANS.*—In the case of a defined benefit  
12       *plan which is a multiemployer plan, except as*  
13       *provided in regulations, the maximum amount*  
14       *deductible under the limitations of this para-*  
15       *graph shall not be less than the excess (if any)*  
16       *of—*

17               “(i) 140 percent of the current liability  
18       *of the plan determined under section*  
19       *431(c)(6)(D), over*

20               “(ii) the value of the plan’s assets de-  
21       *termined under section 431(c)(2).”.*

22       *(c) TECHNICAL AND CONFORMING AMENDMENTS.*—

23               (1) *The last sentence of section 404(a)(1)(A) of*  
24       *such Code is amended by striking “section 412” each*  
25       *place it appears and inserting “section 431”.*

1           (2) Section 404(a)(1)(B) of such Code is  
2       *amended—*

3           (A) by striking “In the case of a plan” and  
4       inserting “In the case of a multiemployer plan”,

5           (B) by striking “section 412(c)(7)” each  
6       place it appears and inserting “section  
7       431(c)(6)”,

8           (C) by striking “section 412(c)(7)(B)” and  
9       inserting “section 431(c)(6)(D)”,

10          (D) by striking “section 412(c)(7)(A)” and  
11       inserting “section 431(c)(6)(A)”, and

12          (E) by striking “section 412” and inserting  
13       “section 431”.

14          (3) Section 404(a)(1) of such Code is amended  
15       by striking subparagraph (F).

16          (4) Section 404(a)(7) of such Code is amended—

17           (A) in subparagraph (A)(ii), by striking  
18       “for the plan year” and all that follows and in-  
19       serting “which are multiemployer plans for the  
20       plan year which ends with or within such tax-  
21       able year (or for any prior plan year) and the  
22       maximum amount of employer contributions al-  
23       lowable under subsection (o) with respect to any  
24       such defined benefit plans which are not multi-  
25       employer plans for the plan year.”,

1           (B) by striking “section 412(l)” in the last  
2           sentence of subparagraph (A) and inserting  
3           “paragraph (1)(D)(ii)”, and

4           (C) by striking subparagraph (D) and in-  
5           serting:

6           “(D) *INSURANCE CONTRACT PLANS.*—For  
7           purposes of this paragraph, a plan described in  
8           section 412(e)(3) shall be treated as a defined  
9           benefit plan.”.

10          (5) Section 404A(g)(3)(A) of such Code is  
11          amended by striking “paragraphs (3) and (7) of sec-  
12          tion 412(c)” and inserting “sections 430(h)(1) and  
13          431(c)(3) and (6)”.

14          (d) *EFFECTIVE DATE.*—The amendments made by this  
15          section shall apply to contributions for taxable years begin-  
16          ning after December 31, 2006.

17       **SEC. 802. UPDATING DEDUCTION RULES FOR COMBINATION**  
18               **OF PLANS.**

19          (a) *IN GENERAL.*—Subparagraph (C) of section  
20          404(a)(7) of the Internal Revenue Code of 1986 (relating  
21          to limitation on deductions where combination of defined  
22          contribution plan and defined benefit plan) is amended by  
23          adding after clause (ii) the following new clause:

24               “(iii) *LIMITATION.*—In the case of em-  
25               ployer contributions to 1 or more defined

1           *contribution plans, this paragraph shall*  
2           *only apply to the extent that such contribu-*  
3           *tions exceed 6 percent of the compensation*  
4           *otherwise paid or accrued during the tax-*  
5           *able year to the beneficiaries under such*  
6           *plans. For purposes of this clause, amounts*  
7           *carried over from preceding taxable years*  
8           *under subparagraph (B) shall be treated as*  
9           *employer contributions to 1 or more defined*  
10          *contributions to the extent attributable to*  
11          *employer contributions to such plans in*  
12          *such preceding taxable years.”.*

13          ***(b) CONFORMING AMENDMENTS.***—Subparagraph (A)  
14          *of section 4972(c)(6) of such Code (relating to nondeductible*  
15          *contributions) is amended to read as follows:*

16                 *“(A) so much of the contributions to 1 or*  
17                 *more defined contribution plans which are not*  
18                 *deductible when contributed solely because of sec-*  
19                 *tion 404(a)(7) as does not exceed the amount of*  
20                 *contributions described in section 401(m)(4)(A),*  
21                 *or”.*

22          ***(c) EFFECTIVE DATE.***—The amendments made by this  
23          *section shall apply to contributions for taxable years begin-*  
24          *ning after December 31, 2006.*

1 ***TITLE IX—ENHANCED RETIRE-***  
2 ***MENTS SAVINGS AND DE-***  
3 ***FINED CONTRIBUTION PLANS***

4 ***SEC. 901. PENSIONS AND INDIVIDUAL RETIREMENT AR-***  
5 ***RANGEMENT PROVISIONS OF ECONOMIC***  
6 ***GROWTH AND TAX RELIEF RECONCILIATION***  
7 ***ACT OF 2001 MADE PERMANENT.***

8 *Title IX of the Economic Growth and Tax Relief Rec-*  
9 *onciliation Act of 2001 shall not apply to the provisions*  
10 *of, and amendments made by, subtitles (A) through (F) of*  
11 *title VI of such Act (relating to pension and individual re-*  
12 *tirement arrangement provisions).*

13 ***SEC. 902. SAVER'S CREDIT.***

14 *(a) PERMANENCY.—Section 25B of the Internal Rev-*  
15 *enue Code of 1986 (relating to elective deferrals and IRA*  
16 *contributions by certain individuals) is amended by strik-*  
17 *ing subsection (h).*

18 *(b) VOLUNTARY DEPOSIT INTO QUALIFIED AC-*  
19 *COUNT.—*

20 *(1) Section 25B of such Code, as amended by*  
21 *subsection (a), is further amended by adding at the*  
22 *end the following new subsection:*

23 *“(h) VOLUNTARY DEPOSIT INTO QUALIFIED AC-*  
24 *COUNT.—*



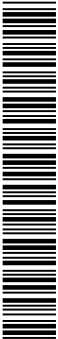
1           “(1) *IN GENERAL.*—So much of any overpay-  
2           ment under section 6401(b) as does not exceed the  
3           amount allowed as a tax credit under subsection (a)  
4           shall, at the election of the taxpayer, be paid on behalf  
5           of the individual taxpayer to an applicable retirement  
6           plan designated by the individual, except that in the  
7           case of a joint return, each spouse shall be entitled to  
8           designate an applicable retirement plan with respect  
9           to payments attributable to such spouse.

10           “(2) *APPLICABLE RETIREMENT PLAN.*—For pur-  
11           poses of this subsection, the term ‘applicable retire-  
12           ment plan’ means any eligible retirement plan (as de-  
13           fined in section 402(c)(8)(B)) that elects to accept de-  
14           posits under this subsection.”.

15           (2) *EFFECTIVE DATE.*—The amendment made by  
16           paragraph (1) shall apply to taxable years beginning  
17           after December 31, 2006.

18   **SEC. 903. INCREASING PARTICIPATION THROUGH AUTO-**  
19                   **MATIC CONTRIBUTION ARRANGEMENTS.**

20           (a) *IN GENERAL.*—Section 401(k) of the Internal Rev-  
21           enue Code of 1986 (relating to cash or deferred arrange-  
22           ment) is amended by adding at the end the following new  
23           paragraph:



1           “(13) *ALTERNATIVE METHOD FOR AUTOMATIC*  
2           *CONTRIBUTION ARRANGEMENTS TO MEET NON-*  
3           *DISCRIMINATION REQUIREMENTS.*—

4           “(A) *IN GENERAL.*—*A qualified automatic*  
5           *contribution arrangement shall be treated as*  
6           *meeting the requirements of paragraph*  
7           *(3)(A)(ii).*

8           “(B) *QUALIFIED AUTOMATIC CONTRIBUTION*  
9           *ARRANGEMENT.*—*For purposes of this para-*  
10          *graph, the term ‘qualified automatic contribu-*  
11          *tion arrangement’ means any cash or deferred*  
12          *arrangement which meets the requirements of*  
13          *subparagraphs (C) through (F).*

14          “(C) *AUTOMATIC DEFERRAL.*—

15          “(i) *IN GENERAL.*—*The requirements*  
16          *of this subparagraph are met if, under the*  
17          *arrangement, each employee eligible to par-*  
18          *ticipate in the arrangement is treated as*  
19          *having elected to have the employer make*  
20          *elective contributions in an amount equal to*  
21          *a qualified percentage of compensation.*

22          “(ii) *ELECTION OUT.*—*The election*  
23          *treated as having been made under clause*  
24          *(i) shall cease to apply with respect to any*

1           *employee if such employee makes an affirm-*  
2           *ative election—*

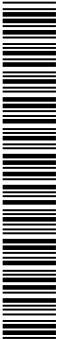
3                     *“(I) to not have such contribu-*  
4                     *tions made, or*

5                     *“(II) to make elective contribu-*  
6                     *tions at a level specified in such af-*  
7                     *firmative election.*

8                     *“(iii) QUALIFIED PERCENTAGE.—For*  
9                     *purposes of this subparagraph, the term*  
10                    *‘qualified percentage’ means, with respect to*  
11                    *any employee, any percentage determined*  
12                    *under the arrangement if such percentage is*  
13                    *applied uniformly, does not exceed 10 per-*  
14                    *cent, and is at least—*

15                    *“(I) 3 percent during the period*  
16                    *ending on the last day of the first plan*  
17                    *year which begins after the date on*  
18                    *which the first elective contribution de-*  
19                    *scribed in clause (i) is made with re-*  
20                    *spect to such employee,*

21                    *“(II) 4 percent during the first*  
22                    *plan year following the plan year de-*  
23                    *scribed in subclause (I),*



1                   “(III) 5 percent during the second  
2                   plan year following the plan year de-  
3                   scribed in subclause (I), and

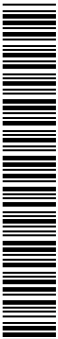
4                   “(IV) 6 percent during any subse-  
5                   quent plan year.

6                   “(iv) *AUTOMATIC DEFERRAL FOR CUR-*  
7                   *RENT EMPLOYEES NOT REQUIRED.*—Clause  
8                   (i) shall be applied without taking into ac-  
9                   count any employee who was eligible to par-  
10                  ticipate in the arrangement (or a prede-  
11                  cessor arrangement) immediately before the  
12                  date on which such arrangement becomes a  
13                  qualified automatic contribution arrange-  
14                  ment (determined after application of this  
15                  clause).

16                  “(D) *PARTICIPATION.*—

17                  “(i) *IN GENERAL.*—An arrangement  
18                  meets the requirements of this subparagraph  
19                  for any year if, during the plan year or the  
20                  preceding plan year, elective contributions  
21                  are made on behalf of at least 70 percent of  
22                  the employees eligible to participate in the  
23                  arrangement other than—

24                  “(I) highly compensated employ-  
25                  ees, and



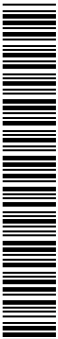
1                   “(II) at the election of the plan  
2                   administrator, employees described in  
3                   subparagraph (C)(iv).

4                   “(ii) *FIRST PLAN YEAR*.—An arrange-  
5                   ment (other than a successor arrangement)  
6                   shall be treated as meeting the requirements  
7                   of this subparagraph with respect to the  
8                   first plan year with respect to which such  
9                   arrangement is a qualified automatic con-  
10                  tribution arrangement (determined without  
11                  regard to this subparagraph).

12                  “(E) *MATCHING OR NONELECTIVE CON-*  
13                  *TRIBUTIONS*.—

14                  “(i) *IN GENERAL*.—The requirements  
15                  of this subparagraph are met if, under the  
16                  arrangement, the employer—

17                  “(I) makes matching contribu-  
18                  tions on behalf of each employee who is  
19                  not a highly compensated employee in  
20                  an amount equal to 50 percent of the  
21                  elective contributions of the employee to  
22                  the extent such elective contributions do  
23                  not exceed 6 percent of compensation,  
24                  or

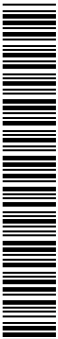


1                   “(II) is required, without regard  
2                   to whether the employee makes an elec-  
3                   tive contribution or employee contribu-  
4                   tion, to make a contribution to a de-  
5                   fined contribution plan on behalf of  
6                   each employee who is not a highly  
7                   compensated employee and who is eli-  
8                   gible to participate in the arrangement  
9                   in an amount equal to at least 2 per-  
10                  cent of the employee’s compensation.

11                  “(ii) APPLICATION OF RULES FOR  
12                  MATCHING CONTRIBUTIONS.—The rules of  
13                  clauses (ii) and (iii) of paragraph (12)(B)  
14                  shall apply for purposes of clause (i)(I).

15                  “(iii) WITHDRAWAL AND VESTING RE-  
16                  STRICTIONS.—An arrangement shall not be  
17                  treated as meeting the requirements of  
18                  clause (i) unless, with respect to employer  
19                  contributions (including matching contribu-  
20                  tions) taken into account in determining  
21                  whether the requirements of clause (i) are  
22                  met—

23                         “(I) any employee who has com-  
24                         pleted at least 2 years of service (with-  
25                         in the meaning of section 411(a)) has



1 *a nonforfeitable right to 100 percent of*  
2 *the employee's accrued benefit derived*  
3 *from such employer contributions, and*

4 *“(II) the requirements of subpara-*  
5 *graph (B) of paragraph (2) are met*  
6 *with respect to all such employer con-*  
7 *tributions.*

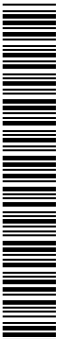
8 *“(iv) APPLICATION OF CERTAIN OTHER*  
9 *RULES.—The rules of subparagraphs (E)(ii)*  
10 *and (F) of paragraph (12) shall apply for*  
11 *purposes of subclauses (I) and (II) of clause*  
12 *(i).*

13 *“(F) NOTICE REQUIREMENTS.—*

14 *“(i) IN GENERAL.—The requirements*  
15 *of this subparagraph are met if, within a*  
16 *reasonable period before each plan year,*  
17 *each employee eligible to participate in the*  
18 *arrangement for such year receives written*  
19 *notice of the employee's rights and obliga-*  
20 *tions under the arrangement which—*

21 *“(I) is sufficiently accurate and*  
22 *comprehensive to apprise the employee*  
23 *of such rights and obligations, and*

24 *“(II) is written in a manner cal-*  
25 *culated to be understood by the average*



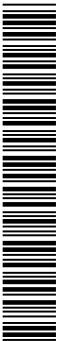
1 *employee to whom the arrangement ap-*  
2 *plies.*

3 *“(ii) TIMING AND CONTENT REQUIRE-*  
4 *MENTS.—A notice shall not be treated as*  
5 *meeting the requirements of clause (i) with*  
6 *respect to an employee unless—*

7 *“(I) the notice explains the em-*  
8 *ployee’s right under the arrangement*  
9 *to elect not to have elective contribu-*  
10 *tions made on the employee’s behalf (or*  
11 *to elect to have such contributions*  
12 *made at a different percentage),*

13 *“(II) in the case of an arrange-*  
14 *ment under which the employee may*  
15 *elect among 2 or more investment op-*  
16 *tions, the notice explains how contribu-*  
17 *tions made under the arrangement will*  
18 *be invested in the absence of any in-*  
19 *vestment election by the employee, and*

20 *“(III) the employee has a reason-*  
21 *able period of time after receipt of the*  
22 *notice described in subclauses (I) and*  
23 *(II) and before the first elective con-*  
24 *tribution is made to make either such*  
25 *election.”.*





1       (b) *MATCHING CONTRIBUTIONS.*—Section 401(m) of  
2 such Code (relating to nondiscrimination test for matching  
3 contributions and employee contributions) is amended by  
4 redesignating paragraph (12) as paragraph (13) and by in-  
5 serting after paragraph (11) the following new paragraph:

6               “(12) *ALTERNATIVE METHOD FOR AUTOMATIC*  
7 *CONTRIBUTION ARRANGEMENTS.*—A defined contribu-  
8 tion plan shall be treated as meeting the requirements  
9 of paragraph (2) with respect to matching contribu-  
10 tions if the plan—

11               “(A) is a qualified automatic contribution  
12 arrangement (as defined in subsection (k)(13)),  
13 and

14               “(B) meets the requirements of paragraph  
15 (11)(B).”.

16       (c) *EXCLUSION FROM DEFINITION OF TOP-HEAVY*  
17 *PLANS.*—

18               (1) *ELECTIVE CONTRIBUTION RULE.*—Clause (i)  
19 of section 416(g)(4)(H) of such Code is amended by  
20 inserting “or 401(k)(13)” after “section 401(k)(12)”.

21               (2) *MATCHING CONTRIBUTION RULE.*—Clause  
22 (ii) of section 416(g)(4)(H) of such Code is amended  
23 by inserting “or 401(m)(12)” after “section  
24 401(m)(11)”.

25       (d) *CORRECTIVE DISTRIBUTIONS.*—

1           (1) *IN GENERAL.*—*Section 414 of the Internal*  
2           *Revenue Code of 1986 (relating to definitions and*  
3           *special rules) is amended by adding at the end the*  
4           *following new subsection:*

5           “(w) *AUTOMATIC CONTRIBUTION ARRANGEMENTS.*—

6           “(1) *IN GENERAL.*—*No tax shall be imposed*  
7           *under section 72(t) on a distribution from an appli-*  
8           *cable employer plan to the employee with respect to*  
9           *whom such contribution relates if such distribution*  
10           *does not exceed the erroneous automatic contribution*  
11           *amount and is made not later than the 1st April 15*  
12           *following the close of the taxable year in which such*  
13           *contribution was made.*

14           “(2) *ERRONEOUS AUTOMATIC CONTRIBUTION*  
15           *AMOUNT.*—*For purposes of this subsection—*

16           “(A) *IN GENERAL.*—*The term ‘erroneous*  
17           *automatic contribution amount’ means the lesser*  
18           *of—*

19           “(i) *the amount of automatic contribu-*  
20           *tions made during the applicable period*  
21           *which the employee elects in a notice to the*  
22           *plan administrator to treat as an erroneous*  
23           *automatic contribution amount for purposes*  
24           *of this subsection, or*

25           “(ii) *\$500.*

1           “(B) *AUTOMATIC CONTRIBUTION.*—*The term*  
2           *‘automatic contribution’ means contributions*  
3           *which, under the terms of the plan—*

4                   “(i) *the employee can elect to be made*  
5                   *as contributions under the plan on behalf of*  
6                   *the employee, or to the employee directly in*  
7                   *cash, and*

8                   “(ii) *which are made on behalf of the*  
9                   *employee under the plan pursuant to a plan*  
10                  *provision treating the employee as having*  
11                  *elected to have the employer make such con-*  
12                  *tributions on behalf of the employee until*  
13                  *the employee affirmatively elects not to have*  
14                  *such contribution made or affirmatively*  
15                  *elects to make contributions as a specified*  
16                  *level.*

17           “(3) *APPLICABLE EMPLOYER PLAN.*—*For pur-*  
18           *poses of this subsection, the term ‘applicable employer*  
19           *plan’ means—*

20                   “(A) *an employees’ trust described in sec-*  
21                   *tion 401(a) which is exempt from tax under sec-*  
22                   *tion 501(a), and*

23                   “(B) *a plan under which amounts are con-*  
24                   *tributed by an individual’s employer for an an-*  
25                   *nuity contract described in section 403(b).*

1           “(4) *APPLICABLE PERIOD.*—For purposes of this  
2           subsection, the term ‘applicable period’ means, with  
3           respect to any employee, the three month period that  
4           begins on the first date that an automatic contribu-  
5           tion described in paragraph (2)(B) is made with re-  
6           spect to such employee.”.

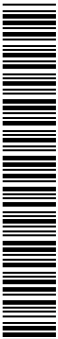
7           (2) *VESTING CONFORMING AMENDMENTS.*—

8           (A) Section 411(a)(3)(G) of such Code is  
9           amended by inserting “an erroneous automatic  
10          contribution under section 414(w),” after  
11          “402(g)(2)(A),”.

12          (B) The heading of section 411(a)(3)(G) of  
13          such Code is amended by inserting “OR ERRO-  
14          NEOUS AUTOMATIC CONTRIBUTION” before the pe-  
15          riod.

16          (C) Section 401(k)(8)(E) of such Code is  
17          amended by inserting “an erroneous automatic  
18          contribution under section 414(w),” after  
19          “402(g)(2)(A),”.

20          (D) The heading of section 401(k)(8)(E) of  
21          such Code is amended by inserting “OR ERRO-  
22          NEOUS AUTOMATIC CONTRIBUTION” before the pe-  
23          riod.



1       (e) *EFFECTIVE DATE.*—*The amendments made by this*  
2 *section shall apply to plan years beginning after December*  
3 *31, 2005.*

4 **SEC. 904. PENALTY-FREE WITHDRAWALS FROM RETIRE-**  
5 **MENT PLANS FOR INDIVIDUALS CALLED TO**  
6 **ACTIVE DUTY FOR AT LEAST 179 DAYS.**

7       (a) *IN GENERAL.*—*Paragraph (2) of section 72(t) of*  
8 *the Internal Revenue Code of 1986 (relating to 10-percent*  
9 *additional tax on early distributions from qualified retire-*  
10 *ment plans) is amended by adding at the end the following*  
11 *new subparagraph:*

12               “(G) *DISTRIBUTIONS FROM RETIREMENT*  
13 *PLANS TO INDIVIDUALS CALLED TO ACTIVE*  
14 *DUTY.*—

15               “(i) *IN GENERAL.*—*Any qualified re-*  
16 *servist distribution.*

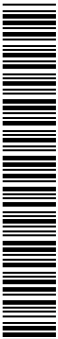
17               “(ii) *AMOUNT DISTRIBUTED MAY BE*  
18 *REPAID.*—*Any individual who receives a*  
19 *qualified reservist distribution may, at any*  
20 *time during the 2-year period beginning on*  
21 *the day after the end of the active duty pe-*  
22 *riod, make one or more contributions to an*  
23 *individual retirement plan of such indi-*  
24 *vidual in an aggregate amount not to ex-*  
25 *ceed the amount of such distribution. The*

1           *dollar limitations otherwise applicable to*  
2           *contributions to individual retirement plans*  
3           *shall not apply to any contribution made*  
4           *pursuant to the preceding sentence. No de-*  
5           *duction shall be allowed for any contribu-*  
6           *tion pursuant to this clause.*

7                   “(iii) *QUALIFIED RESERVIST DIS-*  
8           *TRIBUTION.—For purposes of this subpara-*  
9           *graph, the term ‘qualified reservist distribu-*  
10          *tion’ means any distribution to an indi-*  
11          *vidual if—*

12                   “(I) *such distribution is from an*  
13          *individual retirement plan, or from*  
14          *amounts attributable to employer con-*  
15          *tributions made pursuant to elective*  
16          *deferrals described in subparagraph*  
17          *(A) or (C) of section 402(g)(3) or sec-*  
18          *tion 501(c)(18)(D)(iii),*

19                   “(II) *such individual was (by rea-*  
20          *son of being a member of a reserve*  
21          *component (as defined in section 101*  
22          *of title 37, United States Code)), or-*  
23          *dered or called to active duty for a pe-*  
24          *riod in excess of 179 days or for an in-*  
25          *definite period, and*



1                   “(III) such distribution is made  
2                   during the period beginning on the  
3                   date of such order or call and ending  
4                   at the close of the active duty period.

5                   “(iv) APPLICATION OF SUBPARA-  
6                   GRAPH.—This subparagraph applies to in-  
7                   dividuals ordered or called to active duty  
8                   after September 11, 2001, and before Sep-  
9                   tember 12, 2007. In no event shall the 2-  
10                  year period referred to in clause (ii) end be-  
11                  fore the date which is 2-years after the date  
12                  of the enactment of this subparagraph.”.

13               (b) CONFORMING AMENDMENTS.—

14               (1) Section 401(k)(2)(B)(i) of such Code is  
15               amended by striking “or” at the end of subclause  
16               (III), by striking “and” at the end of subclause (IV)  
17               and inserting “or”, and by inserting after subclause  
18               (IV) the following new subclause:

19                       “(V) in the case of a qualified re-  
20                       servist distribution (as defined in sec-  
21                       tion 72(t)(2)(G)(iii)), the date on  
22                       which a period referred to in subclause  
23                       (III) of such section begins, and”.

24               (2) Section 403(b)(7)(A)(ii) of such Code is  
25               amended by inserting “(unless such amount is a dis-

1        *tribution to which section 72(t)(2)(G) applies)” after*  
2        *“distributee”.*

3            (3) *Section 403(b)(11) of such Code is amended*  
4        *by striking “or” at the end of subparagraph (A), by*  
5        *striking the period at the end of subparagraph (B)*  
6        *and inserting “, or”, and by inserting after subpara-*  
7        *graph (B) the following new subparagraph:*

8            *“(C) for distributions to which section*  
9            *72(t)(2)(G) applies.”.*

10        (c) *EFFECTIVE DATE; WAIVER OF LIMITATIONS.—*

11            (1) *EFFECTIVE DATE.—The amendment made by*  
12        *this section shall apply to distributions after Sep-*  
13        *tember 11, 2001.*

14            (2) *WAIVER OF LIMITATIONS.—If refund or cred-*  
15        *it of any overpayment of tax resulting from the*  
16        *amendments made by this section is prevented at any*  
17        *time before the close of the 1-year period beginning on*  
18        *the date of the enactment of this Act by the operation*  
19        *of any law or rule of law (including res judicata),*  
20        *such refund or credit may nevertheless be made or al-*  
21        *lowed if claim therefor is filed before the close of such*  
22        *period.*





1 **SEC. 905. WAIVER OF 10 PERCENT EARLY WITHDRAWAL**  
2 **PENALTY TAX ON CERTAIN DISTRIBUTIONS**  
3 **OF PENSION PLANS FOR PUBLIC SAFETY EM-**  
4 **PLOYEES.**

5 (a) *IN GENERAL.*—Section 72(t)(2) of the Internal  
6 Revenue Code of 1986 (relating to subsection not to apply  
7 to certain distributions), as amended by section 904, is  
8 amended by adding at the end the following new subsection:

9 “(H) *DROP DISTRIBUTIONS TO QUALIFIED*  
10 *PUBLIC SAFETY EMPLOYEES IN GOVERNMENTAL*  
11 *PLANS.*—

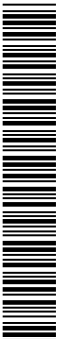
12 “(i) *IN GENERAL.*—Distributions to an  
13 individual who is a qualified public safety  
14 employee from a governmental plan within  
15 the meaning of section 414(d) to the extent  
16 such distributions are attributable to a  
17 *DROP* benefit.

18 “(ii) *DEFINITIONS.*—For purposes of  
19 this subparagraph—

20 “(I) *DROP BENEFIT.*—The term  
21 ‘*DROP* benefit’ means a feature of a  
22 governmental plan which is a defined  
23 benefit plan and under which an em-  
24 ployee elects to receive credits to an ac-  
25 count (including a notional account)  
26 in the plan which are not in excess of

1           *the plan benefits (payable in the form*  
2           *of an annuity) that would have been*  
3           *provided if the employee had retired*  
4           *under the plan at a specified earlier*  
5           *retirement date and which are in lieu*  
6           *of increases in the employee's accrued*  
7           *pension benefit based on years of serv-*  
8           *ice after the effective date of the DROP*  
9           *election.*

10                   “(II) *QUALIFIED PUBLIC SAFETY*  
11           *EMPLOYEE.—The term ‘qualified pub-*  
12           *lic safety employee’ means any em-*  
13           *ployee of any police department or fire*  
14           *department organized and operated by*  
15           *a State or political subdivision of a*  
16           *State if the employee provides police*  
17           *protection, firefighting services, or*  
18           *emergency medical services for any*  
19           *area within the jurisdiction of such*  
20           *State or political subdivision and if*  
21           *the employee was eligible to retire on*  
22           *or before the date of such election and*  
23           *receive immediate retirement benefits.”.*



1       (b) *EFFECTIVE DATE.*—*The amendments made by this*  
2 *section shall apply to distributions after the date of the en-*  
3 *actment of this Act.*

4 **SEC. 906. COMBAT ZONE COMPENSATION TAKEN INTO AC-**  
5 **COUNT FOR PURPOSES OF DETERMINING**  
6 **LIMITATION AND DEDUCTIBILITY OF CON-**  
7 **TRIBUTIONS TO INDIVIDUAL RETIREMENT**  
8 **PLANS.**

9       (a) *IN GENERAL.*—*Subsection (f) of section 219 of the*  
10 *Internal Revenue Code of 1986 is amended by redesignating*  
11 *paragraph (7) as paragraph (8) and by inserting after*  
12 *paragraph (6) the following new paragraph:*

13               “(7) *SPECIAL RULE FOR COMPENSATION EARNED*  
14 *BY MEMBERS OF THE ARMED FORCES FOR SERVICE IN*  
15 *A COMBAT ZONE.*—*For purposes of subsections*  
16 *(b)(1)(B) and (c), the amount of compensation in-*  
17 *cludible in an individual’s gross income shall be de-*  
18 *termined without regard to section 112.”.*

19       (b) *EFFECTIVE DATE.*—*The amendments made by this*  
20 *section shall apply to taxable years beginning after Decem-*  
21 *ber 31, 2005.*

22 **SEC. 907. DIRECT PAYMENT OF TAX REFUNDS TO INDIVIDUAL**  
23 **RETIREMENT PLANS.**

24       (a) *IN GENERAL.*—*The Secretary of the Treasury (or*  
25 *the Secretary’s delegate) shall make available a form (or*

1 *modify existing forms) for use by individuals to direct that*  
2 *a portion of any refund of overpayment of tax imposed by*  
3 *chapter 1 of the Internal Revenue Code of 1986 be paid*  
4 *directly to an individual retirement plan (as defined in sec-*  
5 *tion 7701(a)(37) of such Code) of such individual.*

6 (b) *EFFECTIVE DATE.*—*The form required by sub-*  
7 *section (a) shall be made available for taxable years begin-*  
8 *ning after December 31, 2006.*

9 **SEC. 908. IRA ELIGIBILITY FOR THE DISABLED.**

10 (a) *IN GENERAL.*—*Subsection (f) of section 219 of the*  
11 *Internal Revenue Code of 1986 (relating to other definitions*  
12 *and special rules), as amended by this Act, is further*  
13 *amended by redesignating paragraph (8) as paragraph (9)*  
14 *and by inserting after paragraph (7) the following new*  
15 *paragraph:*

16 “(8) *SPECIAL RULE FOR CERTAIN DISABLED IN-*  
17 *DIVIDUALS.*—*In the case of an individual—*

18 “(A) *who is disabled (within the meaning of*  
19 *section 72(m)(7)), and*

20 “(B) *who has not attained the applicable*  
21 *age (as defined in section 401(a)(9)(H)) before*  
22 *the close of the taxable year,*

23 *subparagraph (B) of subsection (b)(1) shall not*  
24 *apply.”.*

1       (b) *EFFECTIVE DATE.*—*The amendment made by this*  
2 *section shall apply to taxable years beginning after Decem-*  
3 *ber 31, 2005.*

4 **SEC. 909. ALLOW ROLLOVERS BY NONSPOUSE BENE-**  
5 **FICIARIES OF CERTAIN RETIREMENT PLAN**  
6 **DISTRIBUTIONS.**

7       (a) *IN GENERAL.*—

8           (1) *QUALIFIED PLANS.*—*Section 402(c) of the In-*  
9 *ternal Revenue Code of 1986 (relating to rollovers*  
10 *from exempt trusts) is amended by adding at the end*  
11 *the following new paragraph:*

12           “(11) *DISTRIBUTIONS TO INHERITED INDIVIDUAL*  
13 *RETIREMENT PLAN OF NONSPOUSE BENEFICIARY.*—

14           “(A) *IN GENERAL.*—*If, with respect to any*  
15 *portion of a distribution from an eligible retire-*  
16 *ment plan of a deceased employee, a direct trust-*  
17 *ee-to-trustee transfer is made to an individual*  
18 *retirement plan described in clause (i) or (ii) of*  
19 *paragraph (8)(B) established for the purposes of*  
20 *receiving the distribution on behalf of an indi-*  
21 *vidual who is a designated beneficiary (as de-*  
22 *finied by section 401(a)(9)(E)) of the employee*  
23 *and who is not the surviving spouse of the*  
24 *employee—*

1           “(i) the transfer shall be treated as an  
2           eligible rollover distribution for purposes of  
3           this subsection,

4           “(ii) the individual retirement plan  
5           shall be treated as an inherited individual  
6           retirement account or individual retirement  
7           annuity (within the meaning of section  
8           408(d)(3)(C)) for purposes of this title, and

9           “(iii) section 401(a)(9)(B) (other than  
10          clause (iv) thereof) shall apply to such plan.

11          “(B) CERTAIN TRUSTS TREATED AS BENE-  
12          FICIARIES.—For purposes of this paragraph, to  
13          the extent provided in rules prescribed by the  
14          Secretary, a trust maintained for the benefit of  
15          one or more designated beneficiaries shall be  
16          treated in the same manner as a trust designated  
17          beneficiary.”.

18          (2) SECTION 403(a) PLANS.—Subparagraph (B)  
19          of section 403(a)(4) of such Code (relating to rollover  
20          amounts) is amended by inserting “and (11)” after  
21          “(7)”.

22          (3) SECTION 403(b) PLANS.—Subparagraph (B)  
23          of section 403(b)(8) of such Code (relating to rollover  
24          amounts) is amended by striking “and (9)” and in-  
25          serting “, (9), and (11)”.

1           (4) *SECTION 457 PLANS.*—Subparagraph (B) of  
2           *section 457(e)(16) of such Code (relating to rollover*  
3           *amounts) is amended by striking “and (9)” and in-*  
4           *serting “, (9), and (11)”.*

5           (b) *EFFECTIVE DATE.*—The amendments made by this  
6           *section shall apply to distributions after December 31, 2005.*

7           ***TITLE X—PROVISIONS TO EN-***  
8           ***HANCE HEALTH CARE AF-***  
9           ***FORDABILITY***

10          ***SEC. 1001. TREATMENT OF ANNUITY AND LIFE INSURANCE***

11                       ***CONTRACTS WITH A LONG-TERM CARE INSUR-***  
12                       ***ANCE FEATURE.***

13          (a) *EXCLUSION FROM GROSS INCOME.*—Subsection (e)  
14          *of section 72 of the Internal Revenue Code of 1986 (relating*  
15          *to amounts not received as annuities) is amended by redes-*  
16          *ignating paragraph (11) as paragraph (12) and by insert-*  
17          *ing after paragraph (10) the following new paragraph:*

18               “(11) *SPECIAL RULES FOR CERTAIN COMBINA-*  
19               *TION CONTRACTS PROVIDING LONG-TERM CARE INSUR-*  
20               *ANCE.*—Notwithstanding paragraphs (2), (5)(C), and  
21               *(10), in the case of any charge against the cash value*  
22               *of an annuity contract or the cash surrender value of*  
23               *a life insurance contract made as payment for cov-*  
24               *erage under a qualified long-term care insurance con-*

1        *tract which is part of or a rider on such annuity or*  
2        *life insurance contract—*

3                *“(A) the investment in the contract shall be*  
4                *reduced (but not below zero) by such charge, and*  
5                *“(B) such charge shall not be includible in*  
6                *gross income.”.*

7        *(b) TAX-FREE EXCHANGES AMONG CERTAIN INSUR-*  
8        *ANCE POLICIES.—*

9                *(1) ANNUITY CONTRACTS CAN INCLUDE QUALI-*  
10        *FIED LONG-TERM CARE INSURANCE RIDERS.—Para-*  
11        *graph (2) of section 1035(b) of such Code is amended*  
12        *by adding at the end the following new sentence: “For*  
13        *purposes of the preceding sentence, a contract shall*  
14        *not fail to be treated as an annuity contract solely be-*  
15        *cause a qualified long-term care insurance contract is*  
16        *a part of or a rider on such contract.”.*

17                *(2) LIFE INSURANCE CONTRACTS CAN INCLUDE*  
18        *QUALIFIED LONG-TERM CARE INSURANCE RIDERS.—*  
19        *Paragraph (3) of section 1035(b) of such Code is*  
20        *amended by adding at the end the following new sen-*  
21        *tence: “For purposes of the preceding sentence, a con-*  
22        *tract shall not fail to be treated as a life insurance*  
23        *contract solely because a qualified long-term care in-*  
24        *surance contract is a part of or a rider on such con-*  
25        *tract.”.*



1           (3) *EXPANSION OF TAX-FREE EXCHANGES OF*  
2           *LIFE INSURANCE, ENDOWMENT, AND ANNUITY CON-*  
3           *TRACTS FOR LONG-TERM CARE CONTRACTS.*—Sub-  
4           *section (a) of section 1035 of such Code (relating to*  
5           *certain exchanges of insurance policies) is amended—*

6                     (A) *in paragraph (1) by striking “con-*  
7                     *tract;” and inserting “contract or for a qualified*  
8                     *long-term care insurance contract;”,*

9                     (B) *in paragraph (2) by striking “con-*  
10                    *tract;” and inserting “contract, or (C) for a*  
11                    *qualified long-term care insurance contract;”,*  
12                    *and*

13                    (C) *in paragraph (3) by striking “con-*  
14                    *tract.” and inserting “contract or for a qualified*  
15                    *long-term care insurance contract.”.*

16           (4) *TAX-FREE EXCHANGES OF QUALIFIED LONG-*  
17           *TERM CARE INSURANCE CONTRACT.*—Subsection (a) of  
18           *section 1035 of such Code (relating to certain ex-*  
19           *changes of insurance policies) is amended by striking*  
20           *“or” at the end of paragraph (2), by striking the pe-*  
21           *riod at the end of paragraph (3) and inserting “; or”,*  
22           *and by inserting after paragraph (3) the following*  
23           *new paragraph:*

1           “(4) a qualified long-term care insurance con-  
2       tract for a qualified long-term care insurance con-  
3       tract.”.

4       (c) *TREATMENT OF COVERAGE PROVIDED AS PART OF*  
5       *A LIFE INSURANCE OR ANNUITY CONTRACT.*—Subsection  
6       (e) of section 7702B of such Code (relating to treatment of  
7       qualified long-term care insurance) is amended to read as  
8       follows:

9       “(e) *TREATMENT OF COVERAGE PROVIDED AS PART*  
10      *OF A LIFE INSURANCE OR ANNUITY CONTRACT.*—

11           “(1) *COVERAGE TREATED AS CONTRACT.*—Except  
12      as otherwise provided in regulations prescribed by the  
13      Secretary, in the case of any long-term care insurance  
14      coverage (whether or not qualified) provided by a  
15      rider on or as part of a life insurance contract or an  
16      annuity contract, this title shall apply as if the por-  
17      tion of the contract providing such coverage is a sepa-  
18      rate contract.

19           “(2) *DENIAL OF DEDUCTION UNDER SECTION*  
20      213.—No deduction shall be allowed under section  
21      213(a) for any payment made for coverage under a  
22      qualified long-term care insurance contract if such  
23      payment is made as a charge against the cash value  
24      of an annuity contract or the cash surrender value of  
25      a life insurance contract.

1           “(3) *APPLICATION OF SECTION 7702.*—Section  
2           7702(c)(2) (relating to the guideline premium limita-  
3           tion) shall be applied by increasing the guideline pre-  
4           mium limitation with respect to the life insurance  
5           contract, as of any date—

6                   “(A) by the sum of any charges (but not  
7                   premium payments) against the life insurance  
8                   contract’s cash surrender value (within the  
9                   meaning of section 7702(f)(2)(A)) for coverage  
10                  under the qualified long-term care insurance  
11                  contract made to that date under the life insur-  
12                  ance contract, less

13                   “(B) any such charges the imposition of  
14                   which reduces the premiums paid for the life in-  
15                   surance contract (within the meaning of section  
16                   7702(f)(1)).

17           “(4) *PORTION DEFINED.*—For purposes of this  
18           subsection, the term ‘portion’ means only the terms  
19           and benefits under a life insurance contract or annu-  
20           ity contract that are in addition to the terms and  
21           benefits under the contract without regard to long-  
22           term care insurance coverage.

23           “(5) *ANNUITY CONTRACTS TO WHICH PARAGRAPH*  
24           (1) *DOES NOT APPLY.*—For purposes of this sub-



1       *section, none of the following shall be treated as an*  
2       *annuity contract:*

3               “(A) A trust described in section 401(a)  
4               *which is exempt from tax under section 501(a).*

5               “(B) A contract—

6                       “(i) purchased by a trust described in  
7                       *subparagraph (A),*

8                       “(ii) purchased as part of a plan de-  
9                       *scribed in section 403(a),*

10                      “(iii) described in section 403(b),

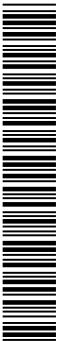
11                      “(iv) provided for employees of a life  
12                      *insurance company under a plan described*  
13                      *in section 818(a)(3), or*

14                      “(v) from an individual retirement ac-  
15                      *count or an individual retirement annuity.*

16               “(C) A contract purchased by an employer  
17               *for the benefit of the employee (or the employee’s*  
18               *spouse).*

19       *Any dividend described in section 404(k) which is re-*  
20       *ceived by a participant or beneficiary shall, for pur-*  
21       *poses of this paragraph, be treated as paid under a*  
22       *separate contract to which subparagraph (B)(i) ap-*  
23       *plies.”.*

24       (d) *INFORMATION REPORTING.—*



1           (1) *Subpart B of part III of subchapter A of*  
2           *chapter 61 of such Code (relating to information con-*  
3           *cerning transactions with other persons) is amended*  
4           *by adding at the end the following new section:*

5   **“SEC. 6050U. CHARGES OR PAYMENTS FOR QUALIFIED**  
6                   **LONG-TERM CARE INSURANCE CONTRACTS**  
7                   **UNDER COMBINED ARRANGEMENTS.**

8           “(a) *REQUIREMENT OF REPORTING.—Any person who*  
9           *makes a charge against the cash value of an annuity con-*  
10          *tract, or the cash surrender value of a life insurance con-*  
11          *tract, which is excludible from gross income under section*  
12          *72(e)(11) shall make a return, according to the forms or*  
13          *regulations prescribed by the Secretary, setting forth—*

14                  “(1) *the amount of the aggregate of such charges*  
15                  *against each such contract for the calendar year,*

16                  “(2) *the amount of the reduction in the invest-*  
17                  *ment in each such contract by reason of such charges,*  
18                  *and*

19                  “(3) *the name, address, and TIN of the indi-*  
20                  *vidual who is the holder of each such contract.*

21          “(b) *STATEMENTS TO BE FURNISHED TO PERSONS*  
22          *WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—*  
23          *Every person required to make a return under subsection*  
24          *(a) shall furnish to each individual whose name is required*  
25          *to be set forth in such return a written statement showing—*

1           “(1) the name, address, and phone number of the  
2           information contact of the person making the pay-  
3           ments, and

4           “(2) the information required to be shown on the  
5           return with respect to such individual.

6   *The written statement required under the preceding sen-  
7   tence shall be furnished to the individual on or before Janu-  
8   ary 31 of the year following the calendar year for which  
9   the return under subsection (a) was required to be made.”.*

10           (2) *CLERICAL AMENDMENT.*—*The table of sec-  
11   tions for subpart B of part III of subchapter A of  
12   such chapter 61 of such Code is amended by adding  
13   at the end the following new item:*

*“Sec. 6050U. Charges or payments for qualified long-term care insurance con-  
tracts under combined arrangements.”.*

14           (e) *TREATMENT OF POLICY ACQUISITION EX-  
15   PENSES.*—*Subsection (e) of section 848 of such Code (relat-  
16   ing to classification of contracts) is amended by adding at  
17   the end the following new paragraph:*

18           “(6) *TREATMENT OF CERTAIN QUALIFIED LONG-  
19   TERM CARE INSURANCE CONTRACT ARRANGEMENTS.*—  
20   *An annuity or life insurance contract which includes  
21   a qualified long-term care insurance contract as a  
22   part of or a rider on such annuity or life insurance  
23   contract shall be treated as a specified insurance con-*



1        *tract not described in subparagraph (A) or (B) of*  
2        *subsection (c)(1).”.*

3        (f) *TREATMENT AS QUALIFIED ADDITIONAL BEN-*  
4        *EFIT.—Subparagraph (A) of section 7702(f)(5) of such Code*  
5        *(relating to qualified additional benefits) is amended by*  
6        *striking “or” at the end of clause (iv), by redesignating*  
7        *clause (v) as clause (vi), and by inserting after clause (iv)*  
8        *the following new clause:*

9                                *“(v) qualified long-term care insurance*  
10                              *contract which is a part of or a rider on the*  
11                              *contract, or”.*

12        (g) *EFFECTIVE DATES.—*

13                (1) *IN GENERAL.—Except as provided by para-*  
14        *graph (2), the amendments made by this section shall*  
15        *apply to contracts issued before, on, or after December*  
16        *31, 2006, but only with respect to periods beginning*  
17        *after such date.*

18                (2) *SUBSECTION (b).—The amendments made by*  
19        *subsection (b) shall apply with respect to exchanges*  
20        *occurring after December 31, 2006.*

21        **SEC. 1002. DISPOSITION OF UNUSED HEALTH BENEFITS IN**  
22                                **CAFETERIA PLANS AND FLEXIBLE SPENDING**  
23                                **ARRANGEMENTS.**

24                (a) *IN GENERAL.—Section 125 of the Internal Revenue*  
25        *Code of 1986 (relating to cafeteria plans) is amended by*

1 redesignating subsections (h) and (i) as subsections (i) and  
2 (j), respectively, and by inserting after subsection (g) the  
3 following:

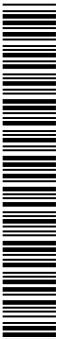
4 “(h) CONTRIBUTIONS OF CERTAIN UNUSED HEALTH  
5 BENEFITS.—

6 “(1) IN GENERAL.—For purposes of this title, a  
7 plan or other arrangement shall not fail to be treated  
8 as a cafeteria plan solely because qualified benefits  
9 under such plan include a health flexible spending ar-  
10 rangement under which not more than \$500 of un-  
11 used health benefits may be—

12 “(A) carried forward to the succeeding plan  
13 year of such health flexible spending arrange-  
14 ment, or

15 “(B) to the extent permitted by section  
16 106(d), contributed by the employer to a health  
17 savings account (as defined in section 223(d))  
18 maintained for the benefit of the employee.

19 “(2) HEALTH FLEXIBLE SPENDING ARRANGE-  
20 MENT.—For purposes of this subsection, the term  
21 ‘health flexible spending arrangement’ means a flexi-  
22 ble spending arrangement (as defined in section  
23 106(c)) that is a qualified benefit and only permits  
24 reimbursement for expenses for medical care (as de-





1       *fin*ed in section 213(d)(1), without regard to subpara-  
2       *graphs* (C) and (D) thereof).

3               “(3) *UNUSED HEALTH BENEFITS.*—For purposes  
4       of this subsection, with respect to an employee, the  
5       term ‘unused health benefits’ means the excess of—

6               “(A) the maximum amount of reimburse-  
7       ment allowable to the employee for a plan year  
8       under a health flexible spending arrangement,  
9       over

10              “(B) the actual amount of reimbursement  
11       for such year under such arrangement.”.

12       (b) *EFFECTIVE DATE.*—The amendments made by sub-  
13       section (a) shall apply to taxable years beginning after De-  
14       cember 31, 2005.

15       **SEC. 1003. DISTRIBUTIONS FROM GOVERNMENTAL RETIRE-**  
16                       **MENT PLANS FOR HEALTH AND LONG-TERM**  
17                       **CARE INSURANCE FOR PUBLIC SAFETY OFFI-**  
18                       **CERS.**

19       (a) *IN GENERAL.*—Section 402 of the Internal Revenue  
20       Code of 1986 (relating to taxability of beneficiary of em-  
21       ployees’ trust) is amended by adding at the end the fol-  
22       lowing new subsection:

23              “(l) *DISTRIBUTIONS FROM GOVERNMENTAL PLANS*  
24       *FOR HEALTH AND LONG-TERM CARE INSURANCE.*—

1           “(1) *IN GENERAL.*—*In the case of an employee*  
2           *who is an eligible retired public safety officer who*  
3           *makes the election described in paragraph (6) with re-*  
4           *spect to any taxable year of such employee, gross in-*  
5           *come of such employee for such taxable year does not*  
6           *include any distribution from an eligible retirement*  
7           *plan to the extent that the aggregate amount of such*  
8           *distributions does not exceed the amount paid by such*  
9           *employee for qualified health insurance premiums of*  
10          *the employee, his spouse, or dependents (as defined in*  
11          *section 152) for such taxable year.*

12          “(2) *LIMITATION.*—*The amount which may be*  
13          *excluded from gross income for the taxable year by*  
14          *reason of paragraph (1) shall not exceed \$5,000.*

15          “(3) *DISTRIBUTIONS MUST OTHERWISE BE IN-*  
16          *CLUDIBLE.*—

17                 “(A) *IN GENERAL.*—*An amount shall be*  
18                 *treated as a distribution for purposes of para-*  
19                 *graph (1) only to the extent that such amount*  
20                 *would be includible in gross income without re-*  
21                 *gard to paragraph (1).*

22                 “(B) *APPLICATION OF SECTION 72.*—*Not-*  
23                 *withstanding section 72, in determining the ex-*  
24                 *tent to which an amount is treated as a distribu-*  
25                 *tion for purposes of subparagraph (A), the aggre-*

1        *gate amounts distributed from an eligible retire-*  
2        *ment plan in a taxable year (up to the amount*  
3        *excluded under paragraph (1)) shall be treated*  
4        *as includible in gross income (without regard to*  
5        *subparagraph (A)) to the extent that such*  
6        *amount does not exceed the aggregate amount*  
7        *which would have been so includible if all*  
8        *amounts distributed from all eligible retirement*  
9        *plans were treated as 1 contract for purposes of*  
10       *determining the inclusion of such distribution*  
11       *under section 72. Proper adjustments shall be*  
12       *made in applying section 72 to other distribu-*  
13       *tions in such taxable year and subsequent tax-*  
14       *able years.*

15       “(4) *DEFINITIONS.*—*For purposes of this*  
16       *subsection—*

17                “(A) *ELIGIBLE RETIREMENT PLAN.*—*For*  
18       *purposes of paragraph (1), the term ‘eligible re-*  
19       *tirement plan’ means a governmental plan*  
20       *(within the meaning of section 414(d)) which is*  
21       *described in clause (iii), (iv), (v), or (vi) of sub-*  
22       *section (c)(8)(B).*

23                “(B) *ELIGIBLE RETIRED PUBLIC SAFETY*  
24       *OFFICER.*—*The term ‘eligible retired public safe-*  
25       *ty officer’ means an individual who, by reason*

1           *of disability or attainment of normal retirement*  
2           *age, is separated from service as a public safety*  
3           *officer with the employer who maintains the eli-*  
4           *gible retirement plan from which distributions*  
5           *subject to paragraph (1) are made.*

6           “(C) *PUBLIC SAFETY OFFICER.*—*The term*  
7           *‘public safety officer’ shall have the same mean-*  
8           *ing given such term by section 1204(8)(A) of the*  
9           *Omnibus Crime Control and Safe Streets Act of*  
10          *1968 (42 U.S.C. 3796b(8)(A)).*

11          “(D) *QUALIFIED HEALTH INSURANCE PRE-*  
12          *MIUMS.*—*The term ‘qualified health insurance*  
13          *premiums’ means premiums for coverage for the*  
14          *eligible retired public safety officer, his spouse,*  
15          *and dependents, by an accident or health insur-*  
16          *ance plan or qualified long-term care insurance*  
17          *contract (as defined in section 7702B(b)).*

18          “(5) *SPECIAL RULES.*—*For purposes of this*  
19          *subsection—*

20          “(A) *DIRECT PAYMENT TO INSURER RE-*  
21          *QUIRED.*—*Paragraph (1) shall only apply to a*  
22          *distribution if payment of the premiums is made*  
23          *directly to the provider of the accident or health*  
24          *insurance plan or qualified long-term care insur-*

1           *ance contract by deduction from a distribution*  
2           *from the eligible retirement plan.*

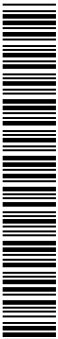
3           “(B) *RELATED PLANS TREATED AS 1.*—*All*  
4           *eligible retirement plans of an employer shall be*  
5           *treated as a single plan.*

6           “(6) *ELECTION DESCRIBED.*—

7           “(A) *IN GENERAL.*—*For purposes of para-*  
8           *graph (1), an election is described in this para-*  
9           *graph if the election is made by an employee*  
10           *after separation from service with respect to*  
11           *amounts not distributed from an eligible retire-*  
12           *ment plan to have amounts from such plan dis-*  
13           *tributed in order to pay for qualified health in-*  
14           *surance premiums.*

15           “(B) *SPECIAL RULE.*—*A plan shall not be*  
16           *treated as violating the requirements of section*  
17           *401, or as engaging in a prohibited transaction*  
18           *for purposes of section 503(b), merely because it*  
19           *provides for an election with respect to amounts*  
20           *that are otherwise distributable under the plan*  
21           *or merely because of a distribution made pursu-*  
22           *ant to an election described in subparagraph*  
23           *(A).*

24           “(7) *COORDINATION WITH MEDICAL EXPENSE*  
25           *DEDUCTION.*—*The amounts excluded from gross in-*



1       *come under paragraph (1) shall not be taken into ac-*  
2       *count under section 213.*

3           “(8) *COORDINATION WITH DEDUCTION FOR*  
4       *HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIV-*  
5       *VIDUALS.—The amounts excluded from gross income*  
6       *under paragraph (1) shall not be taken into account*  
7       *under section 162(l).”.*

8       *(b) CONFORMING AMENDMENTS.—*

9           *(1) Section 403(a) of such Code (relating to tax-*  
10       *ability of beneficiary under a qualified annuity plan)*  
11       *is amended by inserting after paragraph (1) the fol-*  
12       *lowing new paragraph:*

13           “(2) *SPECIAL RULE FOR HEALTH AND LONG-*  
14       *TERM CARE INSURANCE.—To the extent provided in*  
15       *section 402(l), paragraph (1) shall not apply to the*  
16       *amount distributed under the contract which is other-*  
17       *wise includible in gross income under this sub-*  
18       *section.”.*

19           *(2) Section 403(b) of such Code (relating to tax-*  
20       *ability of beneficiary under annuity purchased by*  
21       *section 501(c)(3) organization or public school) is*  
22       *amended by inserting after paragraph (1) the fol-*  
23       *lowing new paragraph:*

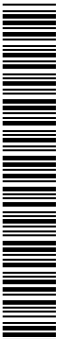
24           “(2) *SPECIAL RULE FOR HEALTH AND LONG-*  
25       *TERM CARE INSURANCE.—To the extent provided in*

1        *section 402(l), paragraph (1) shall not apply to the*  
2        *amount distributed under the contract which is other-*  
3        *wise includible in gross income under this sub-*  
4        *section.”.*

5            *(3) Section 457(a) of such Code (relating to year*  
6        *of inclusion in gross income) is amended by adding*  
7        *at the end the following new paragraph:*

8            *“(3) SPECIAL RULE FOR HEALTH AND LONG-*  
9        *TERM CARE INSURANCE.—In the case of a plan of an*  
10       *eligible employer described in subsection (e)(1)(A), to*  
11       *the extent provided in section 402(l), paragraph (1)*  
12       *shall not apply to amounts otherwise includible in*  
13       *gross income under this subsection.”.*

14        *(c) EFFECTIVE DATE.—The amendments made by this*  
15       *section shall apply to distributions in taxable years begin-*  
16       *ning after December 31, 2005.*



Union Calendar No.

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**H. R. 2830**

[Report No. 109-]

**A BILL**

To amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to reform the pension funding rules, and for other purposes.